

Maxine Fortune 12/15/09

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KAREN HANDLIN, BRIAN HANDLIN, and MAXINE
FORTUNE,

Plaintiffs,

vs.

MURPHY PIERSON, MICHELLE MERCERI,
KATHERINE MERCERI, ALTERNATIVE INVESTORS,
INC. (a partnership), FOCUS MORTGAGE,
LLC, AZ-WA INVESTORS (a partnership),
RAINIER TITLE, LLC, GMAC MORTGAGE
CORPORATION, MARK MERCERI, JAMES
AYLESWORTH, SEAN "CASEY" JONES, and
MORTGAGECLOSE.COM, INC.,

Defendants.

SHAWN CASEY JONES,

Third-Party Plaintiff,

vs.

LENNIE MUELLER and AVISTA ESCROW
SERVICES, LLC,

Third-Party Defendant.

DEPOSITION OF MAXINE FORTUNE
December 15, 2009
Seattle, Washington

Reported by:
Mary W. Miller, RPR, CRR, CCP
CCR No. 2653

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WITNESS INSTRUCTED NOT TO ANSWER

(None)

INFORMATION REQUESTED

(None)

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BE IT REMEMBERED that on Tuesday, December 15,

2009, at 1201 Third Avenue, Seattle, Washington, at 1:30 p.m., before Mary W. Miller, Notary Public in and for the State of Washington, appeared MAXINE FORTUNE, the witness herein;

WHEREUPON, the following proceedings were had,
to wit:

<<<<<< >>>>>>

MAXINE FORTUNE, having been first duly sworn
by the Notary, deposed and
testified as follows:

EXAMINATION

BY MS. BROTHERTON:

Q. Good afternoon, Ms. Fortune. Again I'm Kari Brotherton. I represent Sean Casey Jones and James Aylesworth, two defendants in this case. At this time I'm going to let everybody introduce themselves.

MR. AOKI: I'm Russ Aoki. I represent Michelle Merceri and Focus Mortgage.

MR. WEIBEL: My name is Dave Weibel and I represent GMAC.

MR. DUNN: Eric Dunn representing Karen and

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3 (Pages 6 to 9)

Page 6

1 Brian Handlin.

2 MR. BHARTI: Harish Bharti representing
3 Ms. Fortune.

4 BY MS. BROTHERTON:

5 Q. I understand you did already watch the deposition of
6 Ms. Handlin, your daughter this morning.

7 A. Yes.

8 Q. And we will probably be going over some of the same
9 topics, documents throughout this deposition. And so even
10 though we've already gone over that, I need to hear your
11 testimony as to those same things. So even if you think
12 we've heard it before, we need to hear it from you today.

13 A. Okay.

14 Q. Have you been deposed before?

15 A. No.

16 Q. As I explained this morning, we have a court
17 reporter here recording our deposition, so we need to make
18 sure we're not talking over each other. As I ask a question
19 you let me finish and then you go ahead and answer. If
20 there's something you don't understand, just ask me. I'll
21 either rephrase the question or we'll have the court
22 reporter read it back to us.

23 A. Okay.

24 Q. And if you need a break, just let us know. I just
25 ask that it's not in the middle of a question and answer,

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1 Q. So you live with your son?

2 A. Yes.

3 Q. And what is his name?

4 A. Michael E. Fortune.

5 Q. And how long have you been in the apartment?

6 A. A little over a year. A year and two months about.

7 Q. And does Michael live there with you the whole time
8 as well?

9 A. Yes.

10 Q. And are you both responsible for the rent there?

11 A. Yes, the rent and the other bills.

12 Q. Okay. Have you owned real estate before?

13 A. Well, the house.

14 Q. Property.

15 A. Actually two houses, if you want to count my husband
16 and I together.

17 Q. Okay. And what is the first of those two houses?

18 A. It was a house in Newport Hills. 11654 Southeast
19 58th Street. It was a little three bedroom Rambler.

20 Q. And when did you own that house?

21 A. Now there you've got a question. I don't remember
22 exactly, but Karen was a toddler. No, Karen was in school.
23 She was in first grade. Michael was a toddler when we moved
24 to the other house.

25 Q. Okay. And then is the other house the second home?

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1 and instead we wait until we finish the answer and then we
2 can take a break. Is that okay?

3 A. Uh-huh. Yes.

4 Q. Could you please state your name for the record?

5 A. Maxine J. Fortune.

6 Q. And what is your current address?

7 A. 7311 Coal Creek Parkway Southeast, apartment D102,
8 Newcastle, Washington 98059.

9 Q. And are you currently employed?

10 A. No, I'm retired.

11 Q. Retired, okay. When did you retire?

12 A. I retired in 2007.

13 Q. And where did you retire from?

14 A. Barnes & Noble bookstore in Bellevue, downtown
15 Bellevue.

16 Q. How long had you been with them?

17 A. About 12 years. No, 15 years.

18 Q. What did you do would them?

19 A. I was a bookseller and then I became a lead. And I
20 was leading the children's department and I was the lead in
21 the, I guess the business department is what you'd call it.

22 Q. Okay. Thank you. The property that you live in you
23 noted it was an apartment. So is it an apartment that you
24 own or you rent?

25 A. We rent. My son and I.

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1 A. Yes, and that's the one that Karen is living in now.

2 Q. Okay. And what is that address?

3 A. 5623 - 129th Avenue Southeast, Bellevue, Washington
4 98006.

5 Q. And the first home in Newport Hills, did you
6 purchase that home?

7 A. Yes.

8 Q. And then did you sell it when you purchased the next
9 home?

10 A. Yes.

11 Q. And then you did purchase the home that's at issue
12 in this transaction?

13 A. Yes.

14 Q. And who was the other owner? Was it your husband
15 that owned the other -- owned the house with you?

16 A. Yes.

17 Q. Were there any other family members involved in the
18 initial purchase?

19 A. Of the house I'm living, they're living in now?

20 Q. Yes.

21 A. No. It was just my husband and I because Karen was,
22 you know, in first grade and Michael was two months old,
23 three months old, something like that.

24 Q. Do you recall if you financed the purchase of this
25 house when you initially bought it?

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4 (Pages 10 to 13)

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1 A. Yes.
 2 Q. And when did you purchase this house?
 3 A. I don't know. I can't remember.
 4 Q. Was it over ten years ago?
 5 A. Oh, yes. It's been -- my son is 31 years old and he
 6 was not even a year old when we purchased it, moved in. So
 7 it's been 30 years at least.
 8 Q. Okay, thank you. During this time I understand your
 9 husband passed away?
 10 A. Yes.
 11 Q. Did you transfer ownership to anyone else?
 12 A. Yes. Well, Karen helped me with that and it was put
 13 in both of our names.
 14 Q. Okay. How was it put in both of your names? Did
 15 she purchase a portion of it?
 16 A. No.
 17 Q. Did you gift a portion of it to her?
 18 A. No, I don't think so. Just put her name on with
 19 mine.
 20 Q. Okay. And why was that?
 21 A. Because after my husband died, a year after he died,
 22 I had a heart problem and had to go in and have angioplasty.
 23 And at that time it was suggested by my physicians, my heart
 24 doctors that I add Karen to the house because it would be
 25 less of a problem if I passed on and she had to go through

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1 all the paperwork.
 2 Q. Less of a problem. The problem being the paperwork?
 3 A. Uh-huh, and the transferring of the house and, you
 4 know, it would be easier.
 5 Q. Okay. And I'm sorry, when did your husband pass
 6 away?
 7 A. He passed away in 1992.
 8 Q. Okay. So it was about a year later that you
 9 developed heart issues you said, so 1993?
 10 A. Yeah.
 11 Q. Okay.
 12 A. I probably had them before. I just didn't know it.
 13 But the stress of his dying I think kind of.
 14 Q. At the time in 1993 then did the house have a
 15 mortgage on it?
 16 A. Yes.
 17 Q. Do you recall about the balance of that mortgage?
 18 A. No, I don't.
 19 Q. Do you recall what bank it was with?
 20 A. No, I don't. I want to say it was Seattle First
 21 National but it wasn't. It was another bank.
 22 Q. Was it the original mortgage from when it was
 23 purchased or had it been refinanced since that time?
 24 A. No. It was the original mortgage.
 25 Q. And then did you refinance this original mortgage

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1 then at some point after 1993?
 2 A. Yes.
 3 Q. Do you recall who you refinanced it with?
 4 A. No, I don't. No, I don't. I've lost a lot
 5 but -- no, I don't.
 6 Q. When you first refinanced the original mortgage, was
 7 it at that time that you put your daughter on title to the
 8 house?
 9 A. I don't remember. It was about that time.
 10 Q. Do you recall if you refinanced on your own at all?
 11 A. No. Well, I don't know. I think I didn't. I think
 12 I waited until Karen was on it but I'm not sure, or it
 13 happened at that refinance.
 14 Q. Do you recall the purpose of refinancing the
 15 original mortgage?
 16 A. There were things that had to be done in the house
 17 and changes to be made. I made them after my husband died,
 18 and the money that he had left was gone and I had to
 19 remortgage or I couldn't do it.
 20 Q. Are these changes like improvements or repairs?
 21 A. Yeah. A change of carpeting, you know, that kind of
 22 thing.
 23 Q. Okay. Did you have any other debts that were
 24 refinanced at the same time?
 25 A. I don't think so. I can't remember.

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1 Q. So just in estimating on timeline. Do you think
 2 that you did the first refinance within five years?
 3 A. Yes.
 4 Q. Do you recall how much longer it was after that
 5 before you refinanced again?
 6 A. No.
 7 Q. Do you recall what bank you did the next refinance
 8 through?
 9 A. No.
 10 Q. Do you recall the purpose of the next refinance?
 11 A. No.
 12 Q. Did you carry credit card debt during this time
 13 between the first and the second refinances?
 14 A. I had a credit card and it wasn't -- I had a little
 15 on it but not much.
 16 Q. And was that part of the refinance where that credit
 17 card was paid off?
 18 A. Yes.
 19 Q. Do you recall any other debts that you had, loans
 20 with banks, any other debts that would be incorporated in
 21 the refinance?
 22 A. No, I don't.
 23 Q. On your original mortgage did you ever have
 24 difficulty making that mortgage payment?
 25 A. No.

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5 (Pages 14 to 17)

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1 Q. Had you ever made a mortgage payment late that you
2 recall?
3 A. Not on the first mortgage.
4 Q. When you refinanced the first time, do you recall
5 having difficulty making that payment?
6 A. No, I don't. I don't recall that.
7 Q. Were you solely responsible after your husband's
8 passing for making the mortgage payment on the original
9 mortgage?
10 A. No. I had the help of my daughter and my son and my
11 daughter's best friend, Diane.
12 Q. Did they pay rent to you?
13 A. Um, I guess you could call it that. It was just
14 everybody, you know, put money in so we would have enough to
15 pay the rent. Not the rent but pay the amount of money we
16 needed to pay the mortgage.
17 Q. And was that true after your husband's passing? Was
18 it your daughter, your son and her best friend?
19 A. Yes. Before my husband passed, was just my husband
20 and I and my daughter and -- or my son for a while and then
21 my daughter and her roommate moved back in after he died.
22 Q. And when the first refinance was done within about
23 five years, was anybody else participating in that refinance
24 or were just you obtaining the refinance?
25 A. I don't remember. You're going to get that a lot,

Page 15

1 I'm sorry.
2 Q. That's okay. Can you estimate how many times you've
3 refinanced prior to the transaction at issue, between your
4 original mortgage and the transaction?
5 A. No, not for sure. I can give you an estimate maybe.
6 Q. Okay.
7 A. About four times. Maybe more. I don't know.
8 Q. Can you tell me in those four times -- we've talked
9 about the first two generally. Would the next two have been
10 in the ten years prior to this transaction at issue?
11 A. Yes.
12 Q. Did you participate in those refinances on your own
13 or did somebody else participate with you?
14 A. My daughter Karen participated, at least she
15 advised. She was the brains.
16 Q. And so what does that mean that she would advise?
17 A. I wasn't really good with finances and I really
18 didn't -- I didn't know how to go about doing things and
19 Karen was quick to figure it out. And she worked as my, my
20 leader, you know. She was giving me information and helping
21 me to understand what I was supposed to do.
22 Q. And is that true for all of the refinances then
23 while she was living with you?
24 A. Yes. Karen was the lead in most of it.
25 Q. And in lead does that mean would she be the one that

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1 contacted the representatives, the mortgage brokers or
2 banks?
3 A. Yes, that, but more -- she was the brains. I am
4 more flighty and she was more, you know, to the point, and
5 this is what we need to do and this is what we need to do.
6 She kept me on track.
7 Q. And did you trust your daughter's advice?
8 A. Implicitly.
9 Q. Did you ask to refinance or was that your daughter's
10 idea?
11 A. I don't remember. It would -- no, I just don't
12 remember.
13 Q. Do you recall yourself seeking a refinance through a
14 mortgage broker or a bank on your own?
15 A. Um, no.
16 Q. When you would sign documents in these refinances,
17 was your daughter with you?
18 A. Yes.
19 Q. Would you have an opportunity to ask the
20 representative questions?
21 A. You know, I don't remember. I would think so but I
22 just don't remember.
23 Q. Do you remember if in signing documents for the
24 refinances there was a representative, a mortgage broker or
25 a bank representative or escrow officer attending those

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1 signings?
2 A. Not -- I don't think all the time but I can't give
3 you specifics.
4 Q. Okay.
5 A. But in my mind I'm saying no, they weren't there all
6 the time.
7 Q. Were there times when it was just you and your
8 daughter signing the documents together?
9 A. Yes.
10 Q. Do you recall if in any of these refinances that you
11 did if there were cash proceeds coming from any of the
12 refinances to you or your daughter?
13 A. I don't think so.
14 Q. Do you recall whether credit cards were -- your
15 credit cards were paid off in any of these refinances?
16 A. I don't know. I really don't. I can't pull it up.
17 Q. Do you recall ever obtaining another loan that
18 wasn't secured by your house?
19 A. No. Well, I borrowed money from a friend once, you
20 know, just a couple of days and paid it back. But that
21 isn't what you mean, is it?
22 Q. No, no, but thank you. Did you ever go through the
23 process of requesting a loan and get turned down?
24 A. Yes.
25 Q. When was that?

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6 (Pages 18 to 21)

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1 A. I know we did but I don't know when. I just can't
2 remember.
3 Q. And when you say we, is that you and your daughter
4 again?
5 A. Yes.
6 Q. And do you recall if it was more than once?
7 A. No, I can't remember that either. I'm sorry.
8 Q. The most recent loan that was on your home that's at
9 issue here, do you recall the circumstances around obtaining
10 that loan?
11 A. No.
12 Q. Do you recall if it was you and your daughter
13 obtaining that loan?
14 A. I think it was.
15 Q. Do you recall if anybody else participated in
16 obtaining that loan?
17 A. No.
18 Q. And do you recall if your credit cards were paid off
19 in that transaction?
20 A. I don't know.
21 Q. Do you recall about what the monthly payment was of
22 that mortgage?
23 A. No.
24 Q. How was that mortgage payment made?
25 A. The last one?

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1 Q. Yes.
2 A. It was made in -- we paid on the first of the month
3 at U.S. Bank in Factoria, Washington.
4 Q. I'm sorry, just to make sure we're not getting
5 confused. The loan prior to the one, prior to this
6 transaction.
7 A. Oh, okay.
8 Q. I'm sorry.
9 A. I'm cloudy there. I don't remember.
10 Q. You had mentioned before that your daughter, son and
11 her best friend had helped make the mortgage payments. Is
12 that true for the last mortgage on the house when you owned
13 the house?
14 A. I think maybe I missaid that because they helped
15 with the house payments, all of them. That would be the
16 mortgage payment, the lights, the heat, the water, phone,
17 you know, just all the utilities and everything. I mean we
18 all chipped in and paid.
19 Q. Okay. And by chipping in was there an account that
20 you used for those purposes?
21 A. No. I don't think so.
22 Q. Did you make the mortgage payment from your checking
23 account?
24 A. No, I don't think so.
25 Q. Did your daughter make the mortgage payment?

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1 A. I don't know.
2 Q. Did you review bank statements that would show that
3 the mortgage payment was made?
4 A. I think so, for a while.
5 Q. Do you recall what bank statements those were, whose
6 name they were in?
7 A. No.
8 Q. Did you review invoices or other documents that were
9 received from the mortgage company?
10 A. No.
11 Q. Who would have -- did you receive those?
12 A. I don't know. To my knowledge, no, but I may have
13 forgotten it.
14 Q. Did you discuss with your daughter whether she was
15 receiving those invoices?
16 A. I don't remember. But I'm assuming if she was, she
17 would have shown them to me.
18 Q. Do you recall ever having a concern on whether your
19 mortgage payment was actually being made?
20 A. Not before my heart attack.
21 Q. Prior to your heart attack, you don't recall being
22 concerned whether a mortgage payment was being made?
23 A. Yeah, they were made.
24 Q. In the last loan that was on your house before this
25 transaction were the mortgage payments always made?

Page 21

1 A. I don't know.
2 Q. Did you believe that the mortgage payments were
3 always made?
4 A. I don't remember.
5 Q. Do you recall if the bank, the mortgage company was
6 saying that mortgage payments were not being made?
7 A. No, I don't remember at all.
8 Q. Do you have your own checking account?
9 A. Yes.
10 Q. When you were working with Barnes & Noble, did you
11 have your own checking account?
12 A. Yes.
13 Q. Did anyone else have check signing authority over
14 your account?
15 A. I don't know. I don't remember. I just don't know.
16 Q. Did you reconcile your bank account, your checking
17 account?
18 A. On a monthly basis?
19 Q. Yes.
20 A. I think I did but I don't remember doing it.
21 Q. Do you recall ever having a concern that someone
22 else was using your checking account?
23 A. You mean taking money out of my account?
24 Q. Yes.
25 A. I don't think so. Again, I don't remember but I

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7 (Pages 22 to 25)

Page 22

1 don't think so.
 2 Q. Prior to this last loan, so with your original
 3 mortgage and the first approximate three refinances, did you
 4 ever have trouble with those banks where you were not able
 5 to make a payment?
 6 A. I don't think so.
 7 Q. Were you ever notified by any of those banks that
 8 there were past due amounts?
 9 A. Not that I remember.
 10 Q. And with these same banks did you ever receive
 11 notice of any foreclosure action?
 12 A. No, I don't think so.
 13 Q. And again with the original mortgage of the first
 14 three refinances, did you ever have a concern you were going
 15 to lose your home?
 16 A. I don't know. I don't remember.
 17 Q. With the last loan prior to this transaction, do you
 18 recall being concerned that you were going to lose your
 19 home?
 20 A. Yes.
 21 Q. And this was on the last mortgage prior to this
 22 transaction, okay. Why were you concerned that you were
 23 going to lose your home?
 24 A. I really don't know why I was concerned but I was.
 25 I think it was really because I was worried we wouldn't have

Page 23

1 the money to pay the rent or, you know, we wouldn't have
 2 enough money to pay monthly.
 3 Q. To pay the monthly mortgage?
 4 A. Uh-huh. Yes.
 5 Q. Do you recall a time where you stopped making the
 6 mortgage payment?
 7 A. Um, yes. It was after my heart attack, the second
 8 one. And after I got out of the nursing home where I went
 9 after surgery and we were told we could pay less than the
 10 full amount until, you know, everything was kind of
 11 straightened out and then that's when things started getting
 12 a little bit strange and we were advised not to pay, I
 13 think.
 14 Q. I just want to clarify again because I don't want us
 15 getting confused. The last mortgage that you had on your
 16 home when you owned your home was prior to this transaction.
 17 So was it in 2006 and before, early 2007?
 18 A. Yeah, and that was when Pope Mortgage was involved
 19 and everything looked great, everything looked perfect and
 20 then suddenly it wasn't there. It dissolved, and it was
 21 really strange.
 22 Q. And I'm sorry, because I heard you say second heart
 23 attack.
 24 A. Yes.
 25 Q. Was your first heart attack during this time?

Page 24

1 A. My first heart attack was in '93, 1993. My second
 2 was in June of 2007.
 3 MR. BHARTI: '7?
 4 A. '8. This is '9 now, so it was '8.
 5 Q. During 2008.
 6 A. Yeah, and I don't remember a lot since then. I mean
 7 I'm getting my memory back, but it's slow.
 8 Q. So you do recall working with Pope Mortgage?
 9 A. Yes.
 10 Q. And why -- did you contact Pope Mortgage initially?
 11 A. I don't remember. I just don't remember.
 12 Q. Do you recall how you learned about Pope Mortgage?
 13 A. Well, I know at some point we got, we got mail or
 14 got cards from Rudy Zenega but I really don't remember how
 15 it got started. I don't think anyone suggested them or
 16 referred us to them, but I don't remember who talked to him
 17 first. I know I did some talking during the day and he
 18 always told me everything was fine, was fine. It was
 19 just -- just a couple more days.
 20 Q. Do you recall why you were refinancing at that time?
 21 A. No.
 22 Q. Were you making your mortgage payments at that time?
 23 A. We were until -- we were until we got in touch with
 24 Rudy and he was telling us that we didn't have to, to use
 25 the money that we would use for our mortgage payments to pay

Page 25

1 bills and then they would cover the rest of it, you know,
 2 because we were going to get a new mortgage.
 3 Q. What other bills were being paid at that time?
 4 A. Well, lights, water, heat. I don't know. I just
 5 don't remember. I know about those. I mean I'm assuming.
 6 Q. And like the mortgage, my question was whether you
 7 actually wrote the check for the mortgage. Did you write
 8 the check for these various utilities and expenses?
 9 A. My son took care of some, I took care of some and
 10 Karen and her husband took care of some.
 11 Q. And at any point in time was it your daughter, son,
 12 Diane and your son-in-law and you in this house?
 13 A. Just for a very short time. Diane moved out, I
 14 don't know exactly when, but it was very shortly -- she'd
 15 been planning to anyway.
 16 Q. And did you, this may sound funny, but did you ask
 17 for everyone to move in with you?
 18 A. I don't remember if I actually asked them to move in
 19 but I encouraged them, you know, if they wanted to. I think
 20 after my husband died Karen and Diane thought it would be
 21 better for me to have someone else there because I had had
 22 the heart problem, you know, that next year. So I think it
 23 was, it was a choice that was made by the two girls and Mike
 24 was already in.
 25 Q. Mike is your son?

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8 (Pages 26 to 29)

Page 26

1 A. Yes.
 2 Q. And when your daughter got married --
 3 A. Uh-huh.
 4 Q. -- did you want her husband to also move in to the
 5 house?
 6 A. Yes.
 7 Q. Did you ever have discussions about your daughter
 8 and son-in-law purchasing the house from you?
 9 A. I don't know. I don't think so. Maybe we did but I
 10 just don't -- I don't remember.
 11 Q. I'm sorry, remind me again, you retired in 2006; is
 12 that correct?
 13 A. '6 or -- yeah, it must have been. It was just
 14 before Christmas I retired out. That November, I guess.
 15 Q. And you have other income sources since retiring?
 16 A. Yes.
 17 Q. So you since retiring have still contributed to
 18 making the mortgage payment?
 19 A. Yes. Well, on the apartment now. After I retired I
 20 continued, you know, at the house until I had my heart
 21 attack and then after that all my money was going to pay
 22 for, you know, care, what wasn't covered by insurance and
 23 Medicare. And then I had to move out because I needed a
 24 flatter -- I couldn't -- our house is -- the house is on a
 25 hill and there are steps up and then more steps up and they

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1 didn't want me climbing steps. And so my son and I went out
 2 and found an apartment that is level and we don't have steps
 3 to climb.
 4 Q. Did you still have your own checking account now?
 5 A. Yes.
 6 Q. Do you write the checks for your rent now?
 7 A. Yes.
 8 Q. Do you reconcile your bank account monthly now?
 9 A. Yes. Or my son does.
 10 Q. Does your son have check signing authority over your
 11 account now?
 12 A. I don't know. I would assume he does but I don't
 13 know.
 14 Q. Does he write checks from your account?
 15 A. No.
 16 Q. Do you guys have a joint account that you use?
 17 A. No.
 18 Q. Did you look into filing bankruptcy at any time?
 19 A. Not personally. At least I don't think so.
 20 Q. Have you ever been notified that your home was going
 21 into foreclosure?
 22 A. I don't remember that I got anything on it, but I do
 23 sort of have a memory that it was. And it was either file
 24 bankruptcy or sell the house or try to find someone to help
 25 us.

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1 Q. But you did not look into bankruptcy?
 2 A. No, not personally. I don't think so.
 3 Q. Did you consider selling the house?
 4 A. I don't know. I knew that it might come to that but
 5 I didn't look into it. You know, I didn't try to find out
 6 what I had to do to do it.
 7 Q. Did you discuss it with your daughter?
 8 A. I think, I think we talked about it.
 9 Q. And what did you guys determine together to do with
 10 the house?
 11 A. I think, I think what we decided was we were going
 12 to look for alternatives so we wouldn't have to sell the
 13 house and that we wouldn't have to go into foreclosure and
 14 lose it, and that's about all I can remember.
 15 Q. Do you know how many mortgage payments weren't made?
 16 A. From the time I had my heart attack in June?
 17 Q. No. When you had the mortgage on your home before
 18 this transaction, do you know how many mortgage payments
 19 were missed?
 20 A. No, I don't.
 21 Q. During the time that mortgage payments were not
 22 being made, were you contributing to a fund to make the
 23 mortgage payment?
 24 A. I don't know.
 25 Q. Were you transferring any of your personal funds to

Page 29

1 your daughter to make the mortgage payment for you?
 2 A. No. I don't know.
 3 Q. Did you have legal counsel at any time prior to the
 4 transaction at issue here for any of your debt issues,
 5 mortgage issues?
 6 A. No. Not that I know of.
 7 Q. Going back to your discussions with Pope Mortgage.
 8 You said you didn't recall whether you initially contacted
 9 them. Do you recall -- can you tell me about your
 10 discussions that you do remember having with Rudy or anyone
 11 else about the refinance?
 12 A. Well, I remember him calling me during the day and
 13 saying he thought that he had everything set up, and I asked
 14 him how much it would cost, you know, how much we would be
 15 paying in mortgage. I can't remember if he gave me a figure
 16 or not, but he said it's all set up and within the next
 17 three weeks or something like that it would be all done.
 18 Q. And then did you speak with him again during the
 19 next three weeks?
 20 A. I spoke to his boss once about a week, week and a
 21 half later I think, and then I tried to call him a week
 22 after that and I didn't get ahold of him I think until
 23 almost two weeks after that.
 24 Q. And what was that discussion?
 25 A. I asked him how the, you know, how the arrangements

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9 (Pages 30 to 33)

Page 30

1 were going and he said that, he said that something -- the
 2 bank was going to take the mortgage backed out but that he
 3 had another prospect and it would only be a couple more
 4 weeks and everything would be finished.
 5 Q. And did you continue to keep contact with him then?
 6 A. I tried. It finally got to the point where he
 7 wouldn't answer the phone. Someone answered and he wasn't
 8 there or he was out or he was busy with a customer. He just
 9 wasn't there.
 10 Q. And was that over the two week period that he had
 11 mentioned it would take?
 12 A. No. It was after that. It was after I called and
 13 he said that the bank backed out but they had everything set
 14 up again. Now, this is kind of rough. I want you to know
 15 what I'm saying is what I remember sort of, but, you know,
 16 there might have been other stuff in there that I'm not
 17 remembering. But basically it was sort of he was making
 18 excuses and spreading it out further and further.
 19 Q. Do you know about how long that process took before
 20 you found out that it wasn't going to happen?
 21 A. Probably three to four months. Maybe longer.
 22 Q. Did you find out that that mortgage was not going to
 23 go through or that refinance was not going to go through or
 24 did your daughter find that out?
 25 A. I don't remember. I really don't.

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1 Q. What happened after finding out that that was not
 2 going -- that refinance was not going to happen?
 3 A. When I found out that the refinance wasn't going to
 4 happen the way he said, he stopped taking his calls and his
 5 boss wouldn't answer. And I would get someone on the phone
 6 that would give me a runaround. At first I thought well,
 7 he's busy with another client but it kept going. And so it
 8 was about May, April or May when I finally realized it was
 9 all a big scam.
 10 Q. And what happened after that then?
 11 A. Then we had to start looking for someone else to
 12 finance the mortgage for us.
 13 Q. Do you know if at that point you started to make
 14 your mortgage payment again?
 15 A. No, I don't know.
 16 Q. Do you recall discussing that with anybody, whether
 17 you were going to be making the mortgage payment or not?
 18 A. No. I don't remember.
 19 Q. Did you initiate any of the contacts with either
 20 mortgage brokers or other representatives to find a
 21 resolution?
 22 A. I don't remember.
 23 Q. Do you remember any of the contacts that you did
 24 make?
 25 A. Well, I talked to Michelle but Karen made the

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1 original contact. No, I don't remember any others.
 2 Q. Did you ever have any direct communication with the
 3 bank that the mortgage was not being paid on?
 4 A. U.S. Bank?
 5 Q. No. The mortgage on your home before this
 6 transaction, did you have any direct communication with that
 7 bank or mortgage company?
 8 A. No.
 9 Q. When did you first learn of Alternative Investors?
 10 A. A card came in the mail and Karen read it and
 11 decided to check on it and talked to Michelle, and then I
 12 called her and talked to her. I don't even remember what
 13 the conversation was about, but it had something to do with
 14 signing papers at the mall. And that's about all I
 15 remember.
 16 Q. Did you have more than one discussion with Michelle?
 17 A. Before we signed papers, I don't remember. But if
 18 you want me to make a guess, I'd probably say yes, because I
 19 was home during the day and Karen was at work.
 20 Q. Did you meet with Michelle?
 21 A. At Barnes & Noble when we signed papers with her.
 22 Q. Did you meet with her at any time prior to that?
 23 A. Not that I remember.
 24 Q. Did you have discussions with Michelle to ask her
 25 about the transaction and how the transaction would work or

Page 33

1 different ideas that she could help you with?
 2 A. I don't remember.
 3 Q. Do you remember if you learned about how the
 4 transaction was going to work from Michelle or from your
 5 daughter?
 6 A. I don't remember.
 7 Q. Did you have discussions with anybody else besides
 8 Michelle Merceri regarding the transaction?
 9 A. Other than my family?
 10 Q. Other than your family.
 11 A. I don't remember. I don't think so.
 12 Q. As a family did you discuss what your options were?
 13 A. I don't remember it, I really don't but I think we
 14 probably did.
 15 Q. Do you remember if you specifically had the
 16 discussion about Alternative Investors with your family?
 17 A. No.
 18 Q. Do you recall after first getting the postcard and
 19 your daughter making contact how much longer it was before
 20 you talked to Michelle?
 21 A. I really don't know. Within a -- I don't know. I
 22 better not say because I don't want to say something that
 23 was wrong. It wasn't too long. I would say a week at the
 24 longest.
 25 Q. Then take me through the transaction and the

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10 (Pages 34 to 37)

Page 34

1 documents. It sounds like you guys had some phone calls.
2 Did you have a meeting with Michelle right away or did you
3 have a meeting with somebody else?

4 A. With the contracts and stuff?

5 Q. Yes.

6 A. I hadn't -- I don't remember if we met Michelle or
7 even seen her, talked to her, yes, seen her before we signed
8 the papers down at Southcenter at the mall. And the first
9 time I think I saw her was at Barnes & Noble, at the coffee
10 shop next door.

11 Q. And what happened at Southcenter?

12 A. We went in and we sat down at a table with chairs
13 around it. And the gal brought in the papers and she said
14 all she was doing was bringing the papers and seeing that
15 they were signed and that was it. And she handed them out
16 and they went from, I don't know, Karen to Brian to me and
17 then back to her.

18 Q. Did you review the documents as you signed them?

19 A. A little bit, but she didn't give us a lot of time.

20 I don't remember that I did at all but I think -- you know,
21 I can't say that because I don't know. I'm sure that there
22 was a little reviewing of them but a lot of them it was just
23 sign, sign, sign, sign.

24 Q. Did you think that your daughter was reviewing the
25 documents for you?

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1 A. I don't know. I hope so.

2 Q. You think your son-in-law was reviewing the
3 documents for you?

4 A. I don't know.

5 Q. Did you ask the escrow officer -- I assume that this
6 is a meeting with the escrow officer?

7 A. Yes.

8 Q. Did you ask the escrow officer any questions?

9 A. I don't remember that I did.

10 Q. Do you recall having any questions as you signed the
11 documents?

12 A. No, I don't remember.

13 Q. Did you walk away from this meeting with copies of
14 any of the documents that you had signed?

15 A. I don't remember but I don't think so. I don't
16 think so because we weren't supposed to get them right away
17 I think.

18 Q. What happened next in the process? You've mentioned
19 another meeting at a coffee shop.

20 A. Yes. That was a Starbucks in Bellevue next to the
21 bookstore.

22 Q. Were there any discussions in between the
23 Southcenter meeting and the Starbucks meeting?

24 A. I don't know.

25 Q. And then what happened at the Starbucks meeting?

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1 A. Michelle came in and gave us some documents to sign
2 and I really don't remember anything else. But in the back
3 of my mind I get the feeling that she took those documents
4 back and didn't give them to us and she said she'd get them
5 all together and give it to us later, but I may be wrong. I
6 don't know.

7 Q. Did you go over any questions at this meeting at
8 Starbucks?

9 A. I don't know.

10 Q. Do you recall if you had any questions at the
11 meeting?

12 A. No. Not really, no.

13 Q. I'm sorry, no, you don't recall or no, you didn't
14 have --

15 A. I don't recall, okay.

16 Q. Did you review the documents as you signed them?

17 A. No. I don't think so, not completely. I skimmed
18 them.

19 Q. After that meeting were there additional documents
20 to be signed?

21 A. I don't know. I honestly don't know.

22 Q. Did you meet with anyone in this transaction again
23 prior to the transaction closing?

24 A. I don't think so.

25 Q. Did you fax any documents back and forth?

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1 A. There was one document we took to Kinkos and faxed
2 to Michelle but I can't remember what it was. I remember
3 going there and doing it but I don't remember what it was.

4 Q. Did you retain a copy of those documents?

5 A. I think so.

6 Q. Have you produced a copy of those documents in this
7 lawsuit?

8 A. I have no idea. I don't know.

9 Q. Have you produced any documents in this lawsuit?

10 A. No, not personally. I don't think so.

11 Q. Did you speak with anybody else at Alternative
12 Investors?

13 A. I spoke with Kathy Merceri once to leave a message
14 for Michelle.

15 Q. And what was that regarding?

16 A. I wanted to talk to Michelle about something. I
17 don't know what it was. I don't remember. And Kathy said
18 she wasn't in the office but she'd give her the message and
19 she'd call me back.

20 Q. Did you speak with anybody else or Kathy again?

21 A. No.

22 Q. Did you write letters back and forth to anybody at
23 Alternative Investors?

24 A. No.

25 Q. Did you receive anything from Alternative Investors

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11 (Pages 38 to 41)

Page 38

1 in the mail after the transaction closed?

2 A. I don't remember. I want to say yes, but I just

3 don't remember.

4 Q. What was your understanding of the transaction with

5 Alternative Investors?

6 A. I thought what they were doing was they were taking

7 title of the house and we were paying them a monthly amount

8 that would help lower the interest. And that they were

9 holding the house until the 14 months, or whatever it was,

10 was up and then we would decide whether we wanted to

11 refinance and buy the house or we would sell it. I don't

12 remember Michelle saying anything about helping us, but I do

13 remember talking to her a couple of times and she reassured

14 me that everything would be fine. There wouldn't be any

15 problems, but that's all I remember.

16 Q. I'm sorry, I asked you before whether one of the

17 resolutions was to sell the home and you had said you guys

18 decide not to sell the home.

19 A. That was -- yeah, that was the fall, a year ago this

20 fall. We just didn't want to sell the home if we didn't

21 have to.

22 Q. Was it a family discussion whether to sell the home

23 or not?

24 A. I think so. I don't remember the discussion but I

25 think so.

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1 Q. Do you recall around the time of this transaction

2 what the value of the home was?

3 A. No.

4 Q. You've owned this home a long time. Do you recall

5 at any point in time what the value of the home was? Like

6 when your husband passed away, do you recall about what the

7 house was worth?

8 A. No, I don't.

9 Q. At any of these refinances over time do you recall?

10 A. No.

11 Q. Do you believe the value was appreciating or

12 increasing?

13 A. Yes. I can't say for sure yes, but I believe it

14 was. I didn't have a frightened feeling that, you know, it

15 was going way down and, you know, we would be paying large

16 amounts on the house. It wasn't worth it. I don't remember

17 that at all.

18 Q. As part of this transaction knowing that after 14

19 months or a number of months you were going to be revisiting

20 whether to sell the house or not, did you intend to sell the

21 house at that time?

22 A. I don't remember. I think that probably would have

23 been a family decision, all of us together.

24 Q. At any time in these refinances did you transfer the

25 entire ownership of the home to your daughter?

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1 A. Well, yeah, I did I guess, from what was said here

2 today. I don't really remember that. But that isn't a

3 problem because she became the lead on the loan and I was

4 secondary. Is that what you mean by transferring?

5 Q. Yes. Whether you transferred the entire ownership

6 to your daughter.

7 A. I don't remember.

8 Q. Did you do any research on the background of

9 Alternative Investors or Michelle Merceri?

10 A. No.

11 Q. Did you understand that your daughter was doing that

12 research?

13 A. Yes.

14 Q. Did you rely on her to do that research, to get

15 comfortable with them so that you were comfortable with

16 them?

17 A. Yes.

18 Q. Did you want that research done?

19 A. I think so.

20 Q. Did you ever meet Murphy Pierson?

21 A. The first time I saw Murphy Pierson was at the mall

22 after we signed. I couldn't have told you what he looked

23 like in any way, shape or form. The next time I saw him was

24 when he came to the house and wanted us to pay him rent for

25 the house because he owned it. And I just was walking up

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1 the driveway as they were handing the check and then they

2 decided they would call Michelle and see. I didn't think we

3 should do it. I didn't even get a really good look at him

4 then.

5 The next time I saw him was at the, at a hearing

6 that we had and I really didn't recognize him even then. If

7 he walked into this room and sat down, depending on what he

8 said and, you know, how he was dressed, I probably wouldn't

9 recognize him even now.

10 Q. What did you understand his role to be in the

11 transaction?

12 A. Michelle said that she and a group of people were

13 investors, you know, they help people that were in a

14 situation like ours. Murphy Pierson was brought in,

15 according to Michelle, by one of the other investors in

16 there. That's as much as I really knew about him. And then

17 later I found out from Michelle that he owned four or five

18 homes, rental homes but I really didn't know that much about

19 him. Just that he became very, very nasty and I didn't like

20 him at all. That I remember.

21 Q. Do you recall Michelle Merceri signing any of the

22 contracts when you met with her?

23 A. No, I don't.

24 Q. Do you recall her signing any of the contracts that

25 you signed over fax or with the escrow officer?

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12 (Pages 42 to 45)

Page 42

1 A. No, I don't.
 2 Q. Outside of this transaction, how this ended up, did
 3 you guys discuss other options with Alternative Investors?
 4 A. Other options?
 5 Q. Other ways to structure this transaction.
 6 A. I don't think so. I don't know.
 7 Q. Did you think that your prior mortgage was going to
 8 be paid off in full?
 9 A. You know, I can't answer that. I don't know. I am
 10 going to think I probably did but I wasn't understanding
 11 exactly what was happening. But I can't give you a yes or
 12 no. Just a no.
 13 Q. Did you believe that this transaction was going to
 14 stop the foreclosure on your home?
 15 A. Yes. Slow it down at least.
 16 Q. Did you have any discussions regarding the value of
 17 your home with Michelle Merceri?
 18 A. I don't know. I don't remember.
 19 Q. Did you discuss a dollar amount for this
 20 transaction?
 21 A. Not that I can remember.
 22 Q. And I'm sorry, I believe you already answered this,
 23 but did you sign any of these documents without Karen,
 24 without your daughter?
 25 A. No.

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1 Q. Did you ever have any contact with Focus Mortgage?
 2 A. The name sounds familiar but I don't know. I don't
 3 know.
 4 Q. What did you understand Michelle Merceri's job to
 5 be?
 6 A. I thought that she and a group of investors were
 7 helping people like us get our finances straightened out and
 8 keep our homes. I believed that she was going to do her
 9 best to see that we didn't lose the house and that when the
 10 time came around to do something, that she would help us
 11 find a loan or help us sell the house.
 12 Q. Did you know if she had any real estate experience
 13 in getting loans or in selling homes?
 14 A. You know, I think she did say something about that,
 15 that she had real estate experience, but I can't say it for
 16 sure. It's just sort of a little niggly there. So I'm
 17 going to have to say I don't know.
 18 Q. Did you request an appraisal of the home to be done?
 19 A. No. I didn't personally, no.
 20 Q. Did you ever have a discussion with an appraiser who
 21 was appraising your home?
 22 A. There was an appraiser who came in for, I'm going to
 23 say Pope Mortgage. It's a man from here or from Bellevue
 24 and he did -- the last appraisal that I knew -- there may
 25 have been appraisers running around the outside of the

Page 44

1 house, but he came in and he looked from top to bottom and
 2 outside. And I don't remember his name but I think it had
 3 to do with Pope Mortgage.
 4 Q. Do you remember what the value was on the home?
 5 A. No, I don't.
 6 Q. Outside of the meeting that you had at Southcenter
 7 with the escrow officer, did you have any other contact with
 8 the escrow officer?
 9 A. No, I don't think so.
 10 Q. Do you recall if any documents were sent back and
 11 forth with the escrow officer through the fax or mail?
 12 A. No, I don't think so.
 13 Q. Do you remember asking if Alternative Investors was
 14 charging a fee for setting up this transaction?
 15 A. No.
 16 Q. Did Michelle talk to you about whether there was a
 17 fee charged?
 18 A. I don't remember.
 19 Q. Did you have any discussions with your daughter
 20 about whether there was a fee charge for the transaction?
 21 A. I don't remember.
 22 Q. When you had questions about this transaction, did
 23 you call Michelle Merceri or did you talk to your daughter?
 24 A. Well, I'm sure I talked to my daughter first. But
 25 if neither of us could come up with, you know, an answer, I

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1 called Michelle Merceri. I called her quite a bit.
 2 Probably drove her insane. But she always seemed, you know,
 3 willing to answer or she said I'll get back to you.
 4 Q. And did she get back to you?
 5 A. Most of the time no.
 6 Q. Do you recall what any of those questions were that
 7 you had that were not answered?
 8 A. No. Not off the top of my head, no.
 9 Q. For this transaction did you have discussions with
 10 any bank that was involved?
 11 A. No.
 12 Q. Did you have discussions with any mortgage broker?
 13 A. No.
 14 Q. Did you have legal counsel during the time of this
 15 transaction?
 16 A. No.
 17 Q. What was your understanding of the rental
 18 arrangement then? You mentioned before you understood that
 19 there were payments that were going to be made monthly, I
 20 think you said to reduce the interest. Could you tell me a
 21 little bit more about your understanding of your monthly
 22 payments?
 23 A. That, that's about all I remember. That it was for
 24 that.
 25 Q. And how long did you think you would be making those

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13 (Pages 46 to 49)

Page 46

1 monthly payments?
 2 A. I think we were given -- well, I heard what Karen
 3 said earlier. It was 12 or 14 months and I believe we were
 4 on a 14 month schedule. That's what's here in my head. It
 5 may not be right.
 6 Q. Did you have a due date every month for that
 7 payment?
 8 A. Was the beginning of the month.
 9 Q. And did you make the payment?
 10 A. My daughter and I made the payment.
 11 Q. And how was that payment made?
 12 A. Cash. And we took it to U.S. Bank and we filled out
 13 a form, put it in the account and then we -- they took the
 14 money, counted it and put it where they needed to put it.
 15 And then they, they made their -- they put the receipt in,
 16 made a copy of it and gave that to us and they stapled it on
 17 the back of a little -- well, smaller than that, but, you
 18 know, just a bunch of papers that were monthly.
 19 MR. BHARTI: Let the record reflect you are
 20 describing the size about four inches by six inches.
 21 THE WITNESS: Yeah. Yes.
 22 Q. Who was contributing to making that payment?
 23 A. My daughter, my son-in-law and I.
 24 Q. And was there a set amount that each one of you paid
 25 every month towards the payment?

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1 A. I don't remember. I really don't.
 2 Q. But you recall every month you made that payment; is
 3 that correct?
 4 A. Yes, until I had my heart attack.
 5 Q. And up until you had your heart attack, did you make
 6 that payment timely every month?
 7 A. Yes.
 8 Q. Just in light of time, do you want to take a break
 9 at all or are you doing fine?
 10 A. I'm doing fine.
 11 MR. BHARTI: How much more do you have?
 12 MS. BROTHERTON: Quite a bit more.
 13 MR. BHARTI: Let's take a break.
 14 (Recess taken 2:47 p.m. to 2:55 p.m.)
 15 BY MS. BROTHERTON:
 16 Q. We were going over a little bit just discussing our
 17 understanding of the transaction a little bit. Were you
 18 aware that cash proceeds were going to be coming out of this
 19 transaction with Alternative Investors?
 20 A. No. I don't think so. I don't know. No.
 21 Q. And did you think this transaction was repaying your
 22 mortgage on the house? Did you understand -- I'm sorry, did
 23 you understand that this transaction was repaying your
 24 mortgage on your house?
 25 A. I don't know. No. I don't remember.

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1 Q. Do you remember if it was covering any other debts
 2 of yours or your families?
 3 A. No.
 4 Q. Did you ever speak to James Aylesworth?
 5 A. No.
 6 Q. Did he ever represent any facts to you?
 7 A. No. Not that I know of, no.
 8 Q. Did he write to you?
 9 A. No.
 10 Q. Did you speak with him?
 11 A. No.
 12 Q. Was he held out as someone that was available to
 13 assist you with the loan?
 14 A. No.
 15 Q. Did he provide any advice to you?
 16 A. No.
 17 Q. Did you ever speak with Sean Casey Jones?
 18 A. No.
 19 Q. Did he ever make any representations to you?
 20 A. No.
 21 Q. Did he write to you?
 22 A. No.
 23 Q. Did you ever talk with him over the phone?
 24 A. No.
 25 Q. Was he ever held out as somebody available to assist

Page 49

1 you with obtaining a loan?
 2 A. No.
 3 Q. Did he provide any advice to you?
 4 A. No.
 5 Q. We talked about the summer of your heart attack.
 6 A. Uh-huh.
 7 Q. Prior to your heart attack, did Murphy Pierson come
 8 to your home?
 9 A. Yes. He came in -- the first time that I saw him,
 10 that was the time that he came and said the home was his and
 11 he wanted us to pay this huge amount of rent.
 12 Q. And was it your understanding that you had paid the
 13 monthly payments on time up until that time?
 14 A. Yes.
 15 Q. What is your understanding that happened once you
 16 had your heart attack over those next couple months with
 17 payments?
 18 A. Well, the payment --
 19 MR. BHARTI: You understand the question? Can
 20 you say again. Are you talking about during the heart
 21 attack.
 22 Q. Once you had your heart attack, what was your
 23 understanding what happened with the monthly payment during
 24 that time?
 25 MR. BHARTI: During how much time?

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14 (Pages 50 to 53)

Page 50

1 MS. BROTHERTON: The two months after your heart
 2 attack.
 3 MR. BHARTI: After heart attack.
 4 A. I don't know. I don't know I even thought about it.
 5 Q. Do you recall if you had any discussions with your
 6 daughter about the monthly payment being made while you were
 7 recovering from your heart attack?
 8 A. If we talked during my recovery?
 9 Q. Yes.
 10 A. No, I don't remember. I don't think we did. I
 11 don't know.
 12 Q. Did you have any contact with Michelle Merceri
 13 during that time?
 14 A. No.
 15 Q. After you were recovered, did you move back to your
 16 same home?
 17 A. I moved back after I came out of the nursing home.
 18 Q. Do you recall if while you were back at home if you
 19 had any discussions regarding the monthly payments that were
 20 due?
 21 A. No, I don't remember.
 22 Q. Did you have any contact with Michelle Merceri once
 23 you moved back home?
 24 A. No, I don't think so.
 25 Q. Actually have you talked with Michelle Merceri ever

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1 again?
 2 A. I don't think so.
 3 Q. Did you discuss with your daughter whether the
 4 monthly payment was being made once you moved back home?
 5 A. I don't know. At first I doubt it because I was
 6 kind of in a fog.
 7 Q. How long were you back at home before you moved into
 8 an apartment?
 9 A. A couple of months. Maybe two and a half months.
 10 Q. So just so I have my timeline right. In June 2008
 11 is when you had your heart attack?
 12 A. Yes.
 13 Q. How long were you in a nursing home?
 14 A. I don't remember, but it was a week or so. I don't
 15 know.
 16 Q. Okay. Do you recall at what point you moved into
 17 your apartment?
 18 A. September. A year ago this last September.
 19 Q. And tell me again why did you move into an
 20 apartment?
 21 A. I had problems with stairs and stair climbing. I
 22 got short of breath. If I needed to go anywhere, I had to
 23 walk down a hill and then I'd have to walk back up. And all
 24 the steps -- if I wanted to leave the main part of the
 25 house, I had to go down a flight of stairs to out the door

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1 or another flight of stairs down to the lower. It was split
 2 level. And my cardiologist said it wasn't really that good
 3 for me to do that. And so my son said let's see if we can
 4 find someplace where you can live that's flat, you know,
 5 level. And we found that and we moved.
 6 Q. When you moved out in September 2008, did you
 7 continue to contribute to your daughter and son-in-law to
 8 help make that monthly payment on your home?
 9 A. I don't know. I'm thinking by that time we had
 10 found out the problems we were having and we weren't paying
 11 any more in.
 12 Q. Okay. You stopped --
 13 A. But I don't know. I'm going to have to say I don't
 14 know.
 15 Q. What was your understanding of what the problem was?
 16 A. At that time I don't know that I had much
 17 understanding of the problem. I knew I had to brush my
 18 teeth and comb my hair and get myself dressed and that was
 19 almost it. I knew there were problems. And I knew that
 20 what we'd been told was going to happen wasn't going to
 21 happen and that was it.
 22 Q. Did you have any discussions about how to resolve
 23 that problem with your daughter? Did you have any
 24 discussions with your daughter about how to resolve that
 25 problem?

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1 A. I don't, I don't know if I did or not. I don't
 2 remember.
 3 Q. Do you recall if you made any effort to contact
 4 Michelle Merceri at that time to resolve the problem?
 5 A. No, I don't. I sort of have a remembrance of
 6 calling. I talked to Michelle and I talked to Kathy and
 7 they were closing up the business, but I don't remember if
 8 that was before the heart attack or after.
 9 Q. And you believe you spoke to Kathy Merceri?
 10 A. Yes.
 11 Q. And she told you they were closing up?
 12 A. They were moving their business.
 13 Q. Do you recall what she said about where they were
 14 moving to?
 15 A. She didn't.
 16 Q. Did you have any discussions with your daughter
 17 about resolving the problem before going to file the
 18 lawsuit?
 19 A. We talked, but I don't remember that we came up with
 20 any resolution but that. We didn't see any other way to go
 21 besides that.
 22 Q. Did you have counsel at the time that that decision
 23 was made?
 24 A. No.
 25 Q. If we could go over some documents now.

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15 (Pages 54 to 57)

Page 54

1 A. Sure.
 2 Q. I'm going to start with a couple documents that we
 3 haven't seen yet.
 4 (Exhibit No. 10 and 11 marked
 5 for identification.)
 6 Q. On Exhibit 10, the first one I handed to you, it has
 7 Prudential Mutual Savings Bank at the top?
 8 A. Uh-huh.
 9 Q. Do you recall what this is?
 10 A. This is -- I don't recall it. I mean I'm looking at
 11 it now and I'm thinking it is a loan from this bank to pay
 12 for the house.
 13 Q. It's dated May 30th, 1973. Does that sound like
 14 when you purchased the home?
 15 A. It was about that, yeah. That's about right because
 16 Karen was at the end of the first grade.
 17 Q. And the first line kind of in the ledger area says
 18 amount of loan and off to the right it says \$29,200.
 19 A. Uh-huh.
 20 Q. Is that the original mortgage on the home when you
 21 first bought the home?
 22 A. I don't know. Probably it was but I don't remember.
 23 Q. Do you recall if this was the loan that you were
 24 still paying on when your husband passed away in 1992?
 25 A. Yes, it was.

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1 Q. Thank you. Exhibit 11 that I handed you is titled
 2 deed of trust at the top.
 3 A. Okay.
 4 Q. It is also dated May 30th, 1973.
 5 A. Uh-huh.
 6 Q. Do you recognize this document?
 7 A. No, I don't.
 8 Q. Do you understand what this document is?
 9 A. What is it? You tell me.
 10 Q. It's a deed of trust. It's saying that the deed of
 11 trust is made on May 30th, 1973 between Lawrence E. Fortune
 12 and Maxine J. Fortune, his wife, as grantor whose address is
 13 5623 - 129th Southeast, Bellevue, Washington 98006.
 14 A. Uh-huh.
 15 Q. And Lawrence was your husband; is that correct?
 16 A. Yes.
 17 Q. So this is showing that the home was titled in both
 18 of your names in 1973?
 19 MR. BHARTI: Was that a question?
 20 A. Yes.
 21 Q. I just wanted to confirm that. Thank you. Now, if
 22 we could go to Exhibit 1 that we looked at this morning.
 23 And this is going to be right in front of you in this pile
 24 here.
 25 A. Okay.

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1 Q. Do you recognize Exhibit 1?
 2 A. No.
 3 Q. It's titled a quit claim deed and the grantor is
 4 "Maxine J. Fortune, for and in consideration of love and
 5 affection-gift, conveys and quit claims to Maxine J. Fortune
 6 and Karen A. Fortune both single the following described
 7 real estate." And I believe that's the legal description of
 8 your property in Bellevue.
 9 MR. BHARTI: What is the question?
 10 MS. BROTHERTON: I'm giving her time to review
 11 those.
 12 Q. Do you recall signing this quit claim deed?
 13 A. No, I don't but this is my signature.
 14 Q. That is your signature?
 15 A. Yes.
 16 Q. Do you have any memory of transferring the property
 17 into your daughter's name?
 18 A. No. But, you know, it's down here in black and
 19 white.
 20 Q. Take a look at Exhibit 2. This is also a quit claim
 21 deed dated November 27th, 2000. Do you recognize this deed?
 22 A. No, I don't.
 23 Q. Is that your signature?
 24 A. Yes, it is. And I'm sure it's my daughter's, too.
 25 Q. Okay. Do you recall -- this says the

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1 grantor/borrower Maxine J. Fortune and Karen A. Fortune,
 2 grantee/assignee/beneficiary is Karen A. Fortune. Do you
 3 recall transferring the title of the property into Karen's
 4 name solely?
 5 A. No, I don't, but the signature's on here.
 6 Q. Do you remember any discussions regarding you
 7 gifting the property to your daughter?
 8 A. No, no.
 9 Q. If we can go to Exhibit 3, please.
 10 A. Okay.
 11 Q. We're looking at another quit claim deed dated
 12 October 28th, 2004. Do you recognize this deed?
 13 A. No.
 14 Q. Do you recall a transaction where the title of the
 15 property was placed back in your name with your daughter's?
 16 A. No, I don't. But like I say, my memory's holey.
 17 Q. Have you had any discussion with your daughter
 18 regarding the transfer of the property between the two of
 19 you over time?
 20 A. I'm sure we have but I can't remember it. But I'm
 21 comfortable with it, so. I don't know if that makes a
 22 difference.
 23 Q. Exhibit 4. This is a letter dated July 17th, 2007.
 24 And on page 2 it says that the author is your daughter. Do
 25 you recall this letter?

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16 (Pages 58 to 61)

Page 58

1 A. No.
 2 Q. Do you know if you saw this letter before your
 3 daughter sent it to the bank?
 4 A. I'm sure I did. I don't remember it, but I'm sure
 5 she showed it to me.
 6 Q. Do you remember having, that your bank -- you were
 7 having issues making the mortgage payment with this bank and
 8 were trying to find a resolution with this bank?
 9 A. No, I don't remember.
 10 Q. Do you remember your daughter telling you that you
 11 were having issues?
 12 A. No. Doesn't mean she didn't.
 13 Q. Exhibit 5. This is a Notice of Trustee's Sale.
 14 Have you seen this document before?
 15 A. No, not that I remember.
 16 Q. If you turn to page 2, under part 3 it says payment
 17 information. Just above that it says, "The default for
 18 which this foreclosure is made is/are as follows: Failure
 19 to pay when due the following amounts which are now in
 20 arrears." It says from January first, 2007 through July
 21 19th, 2007. Number of payments is seven and the amount is
 22 \$2081.46. Were you aware that you were seven months behind
 23 in your mortgage payment?
 24 A. No. And I probably knew that. If you asked me that
 25 before my heart attack, I probably would have been able to

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1 say. I hate saying no because it sounds like I'm stupid.
 2 Q. No.
 3 A. But I really don't remember any of this.
 4 Q. Did you have a discussion -- do you remember having
 5 discussions with your family regarding this Notice of
 6 Trustee's Sale?
 7 A. No.
 8 Q. If you would look at Exhibit 6. Again, this is a
 9 compilation of pages 1 through 28 from documents that were
 10 produced by your daughter's attorney. This is the first 28
 11 pages of what they produced. Do you recall seeing -- first
 12 of all, do you know what this first page is?
 13 A. No.
 14 Q. Have you seen this statement before?
 15 A. I don't know if I have or not, but it came from
 16 Eric, her lawyer.
 17 Q. From your daughter's attorney, Mr. Dunn, yes.
 18 A. Then probably I have a copy because his office
 19 copied most everything to me.
 20 Q. Okay.
 21 A. But it doesn't look familiar to me.
 22 Q. Okay. So at the time of the transaction you don't
 23 remember this document?
 24 A. I don't think so.
 25 Q. If we turn to page 3, this is a statutory warranty

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1 deed.
 2 A. Uh-huh.
 3 Q. Do you remember this document?
 4 A. No, I don't but I signed it.
 5 Q. Is that your signature?
 6 A. Yes.
 7 Q. Do you remember signing this document with your
 8 daughter and son-in-law?
 9 A. No. But there were a lot of documents signed.
 10 Q. Do you remember signing documents in the presence of
 11 Lennie Mueller who signed the bottom of this document?
 12 A. Yes.
 13 Q. But you do not remember this document in particular?
 14 A. No. I probably don't remember any of the documents
 15 in particular but I remember signing.
 16 Q. Okay. Do you know what this deed does? Do you
 17 understand what this is?
 18 MR. BHARTI: Which page number are you referring
 19 to?
 20 MS. BROTHERTON: Page 3. We're still on page 3.
 21 A. No. What does it?
 22 Q. It states that, "The grantor, Karen A. Handlin and
 23 Brian A. Handlin, husband and wife, who acquired title as
 24 Karen A. Fortune and Maxine J. Fortune, a married woman, for
 25 and in consideration of \$10 and other good and valuable

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1 consideration in hand paid, conveys and warrants to Murphy
 2 Pierson a single man the following described real estate."
 3 And I believe that's the legal description of your Bellevue
 4 home.
 5 A. That looks like it, yeah. No, I don't remember.
 6 Q. Page 4 is the exhibit that would be attached. Page
 7 5 is a real estate excise tax affidavit. Do you remember
 8 this form?
 9 A. No.
 10 Q. Let's go to the next page, page 6. The title is
 11 Residential Real Estate Purchase and Sale Agreement,
 12 Specific Terms. Do you remember this document?
 13 A. No.
 14 Q. Is that your signature on this document?
 15 A. Yes, it is.
 16 Q. If you could look at the multiple initials that are
 17 on this page. Are all of those your initials?
 18 A. Yes.
 19 Q. Do you remember why this document was being
 20 initialed multiple times?
 21 A. No. I'm assuming has something to do with
 22 Alternative Investors and their taking over.
 23 Q. Do you remember if this was one of the documents
 24 that was faxed?
 25 A. No, I don't.

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17 (Pages 62 to 65)

Page 62

1 Q. If a document was faxed back to Michelle Merceri,
2 would you have faxed it at Kinkos or would your daughter
3 have done that?
4 A. Um, well, I know I did one. My son and I went and
5 did one.
6 Q. Do you recall which one that was?
7 A. No.
8 Q. Did you retain copies of what you faxed?
9 A. I think so, yeah, because when they make a fax it
10 makes another copy and I kept the original copy and sent the
11 fax copy.
12 Q. Okay. Have you produced those documents in this
13 case?
14 A. No.
15 MR. BHARTI: Do you know what produce means?
16 A. Showed them to you or someone.
17 MR. BHARTI: No. Let's clarify. Please ask her
18 again so that she's answering.
19 A. Sorry, about that.
20 Q. Have you provided these documents to any of the
21 parties in this lawsuit?
22 A. No.
23 Q. What is your understanding of this document?
24 A. Well, it looks like it's an agreement to sell the
25 house but I don't remember that. I don't think that was

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1 what we -- that wasn't what we were doing. I mean I didn't
2 think we were.
3 Q. Do you remember what you were doing? What your
4 intention was in this transaction?
5 A. Well, the intention was that we were going to I
6 guess turn over title to the house. But we got no money on
7 this, nothing was paid to us. So I'm not sure, I'm really
8 not.
9 Q. Do you remember asking Michelle Merceri about a
10 document that looks like you're selling your house?
11 A. No. No, I don't.
12 Q. But this is your signature and your initials?
13 A. Yes.
14 Q. If we could turn these next few pages, we're going
15 to confirm these are your signatures. So page 7, is that
16 your signature?
17 A. Yes, it is. And same with 8 and 9. That doesn't
18 look like my signature on 10 but it might be. It's awful
19 tiny.
20 Q. Okay. Do you have reason to think that it's not
21 your signature?
22 A. I just don't know. It doesn't look like my
23 signature. These are small little spaces and if I remember
24 correctly, we had a whole bunch of papers that we had to
25 sign.

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1 Q. And page 11, is that your signature?
2 A. Oh, I guess so. It sort of looks like it.
3 MR. BHARTI: That's 12.
4 MS. BROTHERTON: Page 11.
5 Q. Do you remember reviewing the documents that we just
6 confirmed your signature on?
7 A. No.
8 Q. Do you remember discussing the terms -- on page 11,
9 sorry, it says it is agreed between the seller and buyer as
10 follows and it has some terms listed. Do you remember
11 discussing these terms?
12 A. No.
13 Q. If you read that second -- either of those
14 paragraphs, does that help you recollect the discussions of
15 the terms?
16 A. No.
17 Q. In signing this document, would you have read it
18 before you signed it?
19 A. I don't know. I hope that I would but I don't
20 remember it at all.
21 Q. If you look at page 12, is that your signature at
22 the bottom of the page?
23 A. Yes, it is.
24 Q. Do you recall seeing this settlement statement?
25 A. Well, I don't remember this at all but that is my

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1 signature. But if my memory isn't failing me, it seems like
2 we went through these awfully fast.
3 Q. And who did you go through these with?
4 A. I think it was down at Southcenter.
5 Q. Okay. And that would be with the escrow officer?
6 A. Uh-huh.
7 Q. Okay. If you turn to page 13, is that your
8 signature at the bottom there?
9 A. Yes, it is.
10 Q. And if you look a couple lines above that, it's line
11 1304. It says, "Proceeds disbursements to Alternative
12 Investors, \$142,675.68." Do you remember --
13 A. No.
14 Q. -- signing this page?
15 A. No, I don't but that's my signature.
16 Q. Do you remember discussing the proceeds disbursement
17 with Michelle Merceri?
18 A. No.
19 Q. Do you remember discussing the proceeds
20 disbursements with your daughter?
21 A. No.
22 Q. If you go to page 14 titled HUD 1, page 3. Is that
23 your signature towards the bottom?
24 A. Yes.
25 Q. Do you recall if you signed this document with

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18 (Pages 66 to 69)

Page 66

1 Murphy Pierson?

2 A. Um, I don't remember signing anything with him. In

3 fact if it was done at Southcenter, he came in as we left.

4 Q. So would that mean that this page would not have had

5 his signature on it yet when you signed it?

6 A. I think so.

7 Q. Do you recall if Lennie Mueller signed this document

8 in your presence?

9 A. I don't remember.

10 Q. If you go to page 15, this is titled Closing

11 Agreement and Escrow Instructions for Purchase and Sale

12 Transaction. Do you recall reviewing this document?

13 A. I don't remember it at all.

14 Q. Do you remember if you guys discussed the terms of

15 this document?

16 A. I don't remember.

17 Q. Are these initials your initials at the bottom of

18 the page?

19 A. They might be but it's not usually the way I

20 initial. I don't know.

21 Q. On page 16 are those your initials?

22 A. Now, this is more, at the bottom is more my

23 initials.

24 Q. Okay. And page 17, are those your initials?

25 A. Yes. But I don't remember any of this.

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1 Q. Page 18, are those your initials?

2 A. Yes.

3 Q. And is that your signature?

4 A. Yes.

5 Q. And about a third down this page it says that the

6 limited practice officer for this transaction is Beverly

7 Wolfrum. Do you remember if you met Beverly Wolfrum?

8 A. No. This was probably done at Southcenter. If it

9 was, she wasn't there.

10 Q. Do you remember reading this document?

11 A. No.

12 Q. If we go to page 19, this is a supplement to closing

13 agreement and escrow instructions. I don't see your

14 initials on this page.

15 A. No.

16 Q. Page 20, are those your initials?

17 A. Yes.

18 Q. Is that also your signature?

19 A. Yes.

20 Q. Do you remember reviewing this document that says,

21 "Proceeds check, transfer all net proceeds to Alternative

22 Investors"?

23 A. No, I don't remember that.

24 Q. Do you remember discussing this with Michelle

25 Merceri?

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1 A. No.

2 Q. Do you remember discussing this with your daughter?

3 A. No.

4 Q. Page 21, are those your initials?

5 A. Yes.

6 Q. Page 22, are those your initials?

7 A. Well, it's my signature. So yeah, it could

8 be -- it's kind of icky but it probably is my signature.

9 Q. Page 23 is your daughter's page. Page 24, is that

10 your signature?

11 A. Yes, it is.

12 Q. Okay. This document's titled Certification for No

13 Information Reporting on the Sale or Exchange of a Principal

14 Residence. Do you remember reviewing this document?

15 A. No, I don't.

16 Q. Do you remember answering the seller assurances

17 under part 2 where there's yes and no boxes?

18 A. No, I don't.

19 Q. Page 25, is that your signature?

20 A. That's my signature.

21 Q. Do you recall this document?

22 A. No.

23 Q. That's the last one in that exhibit.

24 A. You don't need these last ones.

25 Q. If we can go to Exhibit 7, this is titled the

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1 Residential Option to Purchase Agreement.

2 A. That's my signature.

3 Q. Do you remember this document?

4 A. No, I don't.

5 Q. Have you reviewed this document since signing it?

6 A. No.

7 Q. Do you remember if this document was signed at a

8 meeting or via fax or mail?

9 A. I really don't remember.

10 Q. Do you remember discussing that you had an option to

11 repurchase your home with your daughter?

12 A. I think that we thought we did. I think that's what

13 we planned to do.

14 Q. Can you tell me what your understanding of that was?

15 A. Well, we were going to be paying a certain amount to

16 Alternative Investors and get ourselves straightened out

17 financially, and then we were going to repurchase the house

18 or sell it, if it was so expensive we couldn't refinance it.

19 That's really, pretty much all I remember.

20 Q. Do you remember after your heart attack and after

21 you recovered if you had discussions about where you were at

22 in this agreement; if you were going to repurchase the home

23 or if you were going to sell the home?

24 A. Um, no, I don't really remember. I mean after

25 Murphy Pierson got in there and said it was his house, we

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19 (Pages 70 to 73)

Page 70

1 talked then.
 2 Q. Okay. And was that prior to your heart attack?
 3 A. It was after the heart attack but it was after the
 4 first of the year.
 5 Q. What did you guys discuss?
 6 A. We decided we were going to go and see if we could
 7 find help.
 8 Q. Okay.
 9 A. I think.
 10 Q. And was it help to repurchase the home or was it
 11 help to file the lawsuit?
 12 A. I think it was help to file the lawsuit.
 13 Q. Do you recall if you did any research or discuss
 14 with any parties about repurchasing the home?
 15 A. No, I can't remember.
 16 Q. If we go to Exhibit 8.
 17 A. Okay.
 18 Q. This is titled an Addendum/Amendment to Purchase and
 19 Sale Agreement dated August 4th, 2007 up top. Do you
 20 remember this document?
 21 A. Um, sort of. I remember we had three options of
 22 payment or how to start payment and we chose the bottom one.
 23 I don't remember that much more about it. Oh, this is my
 24 writing on the back here.
 25 Q. On page 2 of Exhibit 8?

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1 A. Uh-huh. "We've chosen December to start payments.
 2 Thanks for all your support and help."
 3 Q. And you were reading what you wrote in the comment
 4 section?
 5 A. Yes.
 6 Q. And you continued, "Please keep in touch as will
 7 we," and you signed your name?
 8 A. Yes.
 9 Q. Do you remember -- this is a fax cover sheet it
 10 looks like?
 11 A. Yes.
 12 Q. Do you remember sending this to Michelle Merceri?
 13 A. Yes, that's one of the faxes. I remember this one
 14 because it had the options on it.
 15 Q. What was your understanding of these options?
 16 A. Well, we were given three options of when to start
 17 payment and that's about it. I don't really remember a lot
 18 more about it.
 19 Q. It states on the first page of Exhibit 8, "It is
 20 agreed between the seller and buyer as follows." And
 21 there's a second paragraph there that states that, it's
 22 discussing the terms and there's some crossing out and
 23 numbers written in. But it's saying part way through there,
 24 "Estimate amount on August 4th, 2007 from figures from Karen
 25 Fortune would be 22,000," although that's crossed out and

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1 36,000 is in place. "This would count towards the next 18
 2 months estimated mortgage payment would be 3700," 3,000 is
 3 crossed out and 3700 is written in, "which means the amount
 4 of," again crossed out, 36,000, "would be prorated over the
 5 term of the contract." Do you remember what any of that
 6 means?
 7 A. No.
 8 Q. Did you understand that your payment was going to be
 9 1800 a month then based on the choice, the option that you
 10 chose?
 11 A. Yes, I think I remember that.
 12 Q. Okay. And that there was something -- there was
 13 some amount that you guys had paid to reduce that amount
 14 from 3700 a month to 1800 a month based on your option you
 15 chose?
 16 A. I don't know.
 17 Q. Do you remember who provided this document to you?
 18 A. No. I'm assuming it was Michelle but I don't know.
 19 Q. Would you have retained a copy of this document?
 20 A. I think it should be in the document somewhere at
 21 the house.
 22 Q. Okay. Now, I just want to clarify going forward
 23 her. We understand obviously that you have obtained counsel
 24 recently?
 25 A. Yes.

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1 Q. And prior to that you represented yourself; is that
 2 correct?
 3 A. I guess so, yes.
 4 Q. So I just want to make clear, I don't want to know
 5 anything about your discussions with your counsel now. I'm
 6 asking you about prior to the time of obtaining your
 7 counsel. I want to know about that time period. Nothing
 8 that you've discussed with your counsel.
 9 A. Okay.
 10 Q. Why have you chosen to represent yourself up until
 11 getting counsel?
 12 A. I wasn't -- I didn't feel I was really involved. I
 13 got information from Eric but, you know, I don't know. I
 14 just felt like -- I didn't really know what was going on. I
 15 didn't remember a lot. I didn't feel like I would be a
 16 credible witness for or against. And, you know, it's been
 17 months for me to get back up to the point where I even
 18 remember some things. So I don't know. I just figured
 19 that, you know, nobody was probably going to care one way or
 20 the other what I said, so. And I couldn't afford a lawyer.
 21 Q. But you understand you're a plaintiff in this
 22 lawsuit; is that correct?
 23 A. Well, I do now, yeah.
 24 Q. Did you understand when the complaint was filed that
 25 you were a plaintiff in this lawsuit?

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20 (Pages 74 to 77)

Page 74

1 A. I don't know if I did. When was it filed?
 2 Q. I'm actually not sure. I'm not sure.
 3 A. I don't know.
 4 Q. Possibly a year ago. Do you recall when the initial
 5 complaint was drafted?
 6 A. No.
 7 Q. Did you have input on the initial complaint or help
 8 draft the initial complaint?
 9 A. I don't know. I don't remember.
 10 Q. Did you think that Northwest Justice Project was
 11 representing you?
 12 A. No. I knew that they couldn't because I have too
 13 much income.
 14 Q. Okay. So did you understand that you were without
 15 legal representation?
 16 A. Yes, I did. When I heard about this I was scared to
 17 death because I knew I'd be surrounded by lawyers and then
 18 it would just be little old me, but then I got saved.
 19 MR. BHARTI: You have nothing to worry about
 20 now.
 21 (Exhibit No. 12 marked
 22 for identification.)
 23 A. Am I okay with answering the way I am?
 24 Q. Your attorney. Do you know what this is?
 25 A. It's a complaint filed by Karen and Brian and I

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1 against the people in Alternative Investors.
 2 Q. Had you seen this document before now?
 3 A. You know, I think I have. I get most -- I get
 4 copies of most everything and I read the ones I understand
 5 and look at the others. And sometimes I have my son read
 6 them and explain them.
 7 Q. Okay. In this lawsuit an initial complaint was
 8 filed and there's been a first amended complaint and there
 9 was a second amended complaint. Do you recall all three
 10 complaints?
 11 A. No, I don't, but I'm sure I have them.
 12 Q. Did you give input into drafting these complaints,
 13 any one of them?
 14 A. No.
 15 Q. Were you ever asked to review these complaints prior
 16 to them being filed?
 17 A. No, I don't think so.
 18 Q. Would that be true for the initial complaint as
 19 well?
 20 MR. BHARTI: I think it would be appropriate if
 21 you let her see the document so she can remember because
 22 referring to documents with that kind of situation.
 23 MS. BROTHERTON: Would you like me to get the
 24 initial complaint?
 25 MR. BHARTI: As least if you could even show her

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1 the cover page, that will be helpful to her.
 2 MS. BROTHERTON: Okay. Do you mind if we take a
 3 break? Is that okay?
 4 (Recess taken 3:42 p.m. to 3:49 p.m.)
 5 (Exhibit No. 13 and 14 marked
 6 for identification.)
 7 BY MS. BROTHERTON:
 8 Q. So if we start with Exhibit 13.
 9 A. Yes. You know --
 10 MR. BHARTI: Hold on. Review the complaint
 11 before you answer. I want you to see the document, complete
 12 document before you answer any questions. So take your
 13 time. There is no tendency to answer right away until you
 14 have reviewed it.
 15 A. Okay.
 16 MR. BHARTI: Have you?
 17 Q. Do you recall this document?
 18 A. I don't recall it but I do remember signing
 19 something, and this is probably it because it had this
 20 number across the top of it.
 21 Q. Okay. Who asked you to sign the document?
 22 A. I don't remember. I'm going to say Eric Dunn but I
 23 don't remember him asking. My signature is definitely on
 24 here. Karen's signature is definitely on here and that
 25 comes from the Justice league, so I'm assuming it's Eric.

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1 Q. Did you have a meeting with Mr. Dunn to review this
 2 document?
 3 A. I don't remember.
 4 Q. Were you provided any drafts prior to this document
 5 being signed?
 6 A. I don't think -- I don't know.
 7 Q. Did you provide any -- I'm sorry?
 8 MR. BHARTI: Can you tell her what draft means
 9 so that she knows what --
 10 Q. Draft means prior to the final version. Were you
 11 asked for your input into this document or were you asked to
 12 review any drafts prior to them finalizing this document?
 13 A. No. I don't think so.
 14 Q. Had you read this document before in its entirety?
 15 A. No, that I remember.
 16 Q. Did you discuss this document with your daughter?
 17 A. I don't know. I don't remember doing it but I might
 18 have.
 19 Q. And I'm sorry, to confirm, were you in Mr. Dunn's
 20 office when you signed this document or were you at home?
 21 A. I'm assuming I was in his office.
 22 Q. What is your understanding of this document?
 23 A. I don't know. It's a document. It's a verified
 24 complaint.
 25 Q. Do you know if your daughter helped write this

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21 (Pages 78 to 81)

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1 document or if -- do you know if your daughter helped write
2 this document?
3 A. I don't know. I guess I would assume so. It would
4 make sense but I don't know.
5 Q. Exhibit 14 is the first amended complaint.
6 A. Okay.
7 MR. BHARTI: Let's put this away and focus on
8 this. Take a look at the whole document, please.
9 A. I remember reading this but I don't remember what I
10 read. But I do remember back here there, I remember some of
11 the pages. The Northwest Justice league and the initials,
12 and I remember the front page but I don't remember any more
13 about it.
14 Q. Did you see this document prior to it being filed
15 with the court?
16 A. I don't know.
17 Q. Were you asked for any input into this document?
18 A. I can't remember. I don't think so.
19 Q. Did you have meetings with Northwest Justice Project
20 to review this document?
21 A. I don't know. I don't remember.
22 Q. Did you provide a written recollection of the facts
23 to Northwest Justice Project?
24 A. No. I don't think so.
25 Q. Do you understand that this complaint was filed with

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1 you as a plaintiff?
2 A. Well, I didn't remember that but I guess I am. My
3 name is on there as a plaintiff, yeah. I mean it's not
4 something that they didn't do. I just don't remember.
5 Q. So going back to Exhibit 12 then.
6 A. Uh-huh.
7 Q. It's the second amended complaint.
8 A. Uh-huh.
9 Q. I'm sorry, take a moment to review. Had you seen
10 this document prior to it being filed with the court?
11 A. I don't know.
12 Q. Did you have any discussions with Northwest Justice
13 Project regarding this document prior to it being filed?
14 A. Not that I can remember.
15 Q. Were you asked to give input for this document?
16 A. I don't know.
17 Q. Did you help draft the document?
18 A. No, I don't think so. No, I know -- nobody asked me
19 to draft anything.
20 Q. Thank you. And one last exhibit.
21 (Exhibit No. 15 marked
22 for identification.)
23 A. I remember this.
24 Q. Do you know what this document is?
25 A. Yep.

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1 Q. Could you tell me what it is.
2 A. It's questions and answers in response to Murphy
3 Pierson's First Set of Interrogatories and Requests For
4 Production of Documents. That's what it says here. To
5 answer what Murphy Pierson said.
6 Q. Okay. Did you receive this document in the mail?
7 A. Yes, I did.
8 Q. And did you fill this out yourself?
9 A. Yes, I did. But I had a little help on it. My son.
10 Q. And how did your son help you?
11 A. Oh, there was some things I didn't really understand
12 and he would sort of explain it.
13 Q. Okay. Did you discuss your responses with your
14 daughter?
15 A. No, I didn't.
16 Q. Did you recollect all the facts in here on your own?
17 A. Um, I think that I got some help on some from Mike.
18 Q. Was your son Mike involved in any of the meetings --
19 A. No.
20 Q. -- of this transaction?
21 A. No. He was just helping me with the questions and
22 saying, you know, what do you remember. Well, write it
23 down. Are you sure that's what it was. Okay, if you're not
24 sure, don't put it in. Now, I don't know if that's good or
25 bad, but he was just trying to make it so that wherever this

Page 81

1 went, um, the people would understand it.
2 Q. Did you type up this document yourself?
3 A. No.
4 Q. Did your son Mike type up this document?
5 A. Yes. Or typed up a copy. I don't know if this
6 is -- yeah. I don't type.
7 Q. But your son does?
8 A. Yes.
9 Q. Did you provide these documents directly to Murphy
10 Pierson's attorney?
11 A. Directly to him?
12 MR. DUNN: Can we take a couple minute recess,
13 please?
14 MS. BROTHERTON: I'm in the middle of a question
15 and answer.
16 MR. DUNN: I think it's best if we take a couple
17 minutes.
18 MS. BROTHERTON: We're in the middle of a
19 question and answer. Can we please finish?
20 MR. DUNN: Yes.
21 MS. BROTHERTON: Thank you. You may answer.
22 A. What was the question?
23 MS. BROTHERTON: Could you read that back.
24
25

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22 (Pages 82 to 85)

Page 82

(Question on Page 81, Lines 9 through 10, read by the reporter.)

A. No.

Q. Who did you provide them to?

MR. BHARTI: Hold on. That question is over. He wants to break. I think he's entitled to it.

MR. DUNN: Let's just get up and take our recess.

(Recess taken 4:00 p.m. to 4:03 p.m.)

BY MS. BROTHERTON:

Q. If I may ask why were you just pulled out of the meeting by your daughter's attorney?

A. Because I was worried. My son helped me write up the answers and then I sent them down to the Justice League and they typed them up because I just wrote in, you know, longhand. And I didn't know whether, I didn't know whether -- my son helped me write it up. Nobody else, and he really didn't do a lot. What he did was just kind of help me make sense of it.

Q. Okay. So did your son type up the answers?

A. He wrote them up.

Q. In longhand using a pen?

A. Uh-huh.

Q. Who typed up the answers?

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A. One of the people down at the Justice League.

Q. Okay. Do you think -- did you think at that time that Northwest Justice was representing you?

A. I didn't have any representation. They were just helping out.

Q. Had you signed the document prior to sending it to them to have it typed up?

A. No.

Q. Did you sign it after it was typed up?

A. Yes.

Q. Where did you sign it? I'm sorry, were you in their offices?

A. Yeah, I think it was.

Q. Did you review the document prior to signing it?

A. Yes, I sat down and looked through it.

Q. And did it agree with your handwritten answers?

A. Yes.

Q. Did you retain a copy of your handwritten answers?

A. I think I have a copy at home.

Q. Okay. Thank you.

A. Is that bad or good?

MR. BHARTI: This is not your concern. Your concern is to validate what you know. You're not supposed to validate that. And for the record, Mr. Dunn pulled out and wanted to make sure the truthful testimony is coming

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out. That was his concern. And he made it clear that it should be 100 percent truthful, and that was conveyed to the witness and reinforced by me.

MS. BROTHERTON: Mr. Dunn, do you have anything to add since he's speaking for you?

MR. DUNN: No, that's what happened.

MS. BROTHERTON: Thank you.

BY MS. BROTHERTON:

Q. Did you discuss your answers with Northwest Justice Project?

A. A little bit because my writing and my son's -- you know, we did a little bit but not -- I don't think anything was much changed.

Q. Did you make any changes based on those discussions with Northwest Justice Project?

A. A few.

Q. Okay. Do you recall what those changes were?

A. No, I don't now. It didn't change what I wanted to say. It changed what I maybe didn't say right. Wasn't as clear.

Q. Okay.

A. I don't know how to explain it. But, you know, the way I said it it wasn't -- I don't know. What do I want to say. It wasn't as clear.

Q. Okay. Did you discuss the answers that your

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daughter -- with your daughter, the answers that you were providing on these interrogatories?

A. No.

Q. These are interrogatories and requests for production. Did you provide any documents to produce in response to the request for production?

A. No, I don't think so.

Q. So if we turn -- if you could turn to the last -- well, I'm sorry, the last four pages, the first two pages of the last four pages.

A. The stop payment confirmation?

Q. Did you provide that to Northwest Justice Project?

A. This is Brian J. Handlin.

Q. Did you provide this?

A. I don't remember.

Q. Do you recall you having a copy of this document, of the stop payment confirmation?

A. I can't remember.

Q. The next page, MLS report flyer. Is this your document?

A. I don't remember. This doesn't even look like our house. Well, it does. It's too dark.

Q. If we go to the two pages prior to the stop payment confirmation, it's page 7 of the interrogatories and requests for production. You'll see that --

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23 (Pages 86 to 89)

Page 86

1 A. Okay.
 2 Q. There's a title towards the bottom of the page
 3 request for production of documents. And there's a request
 4 for production No. 1 and then a response and it says, "See
 5 attached." Did you provide any documents that were
 6 attached?
 7 A. I don't think I did. I don't know. I don't
 8 remember.
 9 Q. If you spent a few minutes reviewing this, would you
 10 be able to tell us what changes did happen after your
 11 discussions with Northwest Justice Project?
 12 A. I don't know that I can. You know, some things
 13 here -- I remember that -- I don't have a lot of documents I
 14 don't think. You know, I don't have a lot of the documents.
 15 If I do, I don't know where they are.
 16 Q. On the earlier pages in the interrogatory answers
 17 can you -- if you look through those, can you determine what
 18 was changed after your discussion with Northwest Justice
 19 Project?
 20 A. Well, this answer I'm not -- I'm sorry, I did talk
 21 to her but I didn't remember at the time.
 22 Q. Which answer are we looking at?
 23 A. This is answer to No. 4.
 24 Q. Okay.
 25 A. About Kathryn. I did talk to her but I didn't

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1 remember it at the time. I never met her in person. I
 2 don't know what she looks like.
 3 Q. So is this an answer you changed after discussion
 4 with your daughter or Northwest Justice Project?
 5 A. No. You asked earlier and I remembered then, but I
 6 didn't remember that other than leaving a message for
 7 Michelle. But I did talk to her after that once and she
 8 just said Michelle wasn't there. I asked for Michelle,
 9 Michelle isn't here. Will she be back. No, not today. I
 10 think for the most part -- a lot of this is just something
 11 else. You know, to tell you the truth, as much as I can
 12 remember, this is what it was.
 13 Q. Okay.
 14 A. When it went to Justice League.
 15 Q. So, for example, looking at page 4, interrogatory
 16 No. 12.
 17 A. It says I showed the advertise --
 18 MR. BHARTI: Hold on. There is no question. She
 19 only asked you to look at it. Question is coming. Just
 20 wait for it.
 21 A. Okay.
 22 Q. Do you recollect now that you were facing
 23 foreclosure?
 24 A. Yes.
 25 Q. Do you recall how you learned that you were facing

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1 foreclosure?
 2 A. I think -- I'm not sure. I either got -- we either
 3 got something in the mail or someone told me, but I can't, I
 4 can't remember who or when it was. I'm sorry. You know, it
 5 may have been something as easy as my son saying.
 6 MR. BHARTI: Just tell her what you know and you
 7 don't need to --
 8 Q. Did your son remind you that you were facing
 9 foreclosure?
 10 A. He told me that later. I don't know if he did at
 11 this time, but later he did.
 12 Q. But when you were answering this you recollected
 13 that you were facing foreclosure?
 14 MR. BHARTI: Asked and answered.
 15 Q. When you answered this question you recollected that
 16 you were facing foreclosure?
 17 A. He did. I didn't.
 18 Q. Okay. You did not.
 19 A. Until he mentioned it.
 20 Q. Did your son help you answer this question then?
 21 A. Not that much. But he said yeah, yeah, you were
 22 facing foreclosure. You know, it's so confusing to me
 23 because even now I have gaps. He's the one that told me
 24 about that and I think -- I'm just not entirely sure about
 25 that. But I think he's the one that told me and he told me

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1 while we were working on this. And then it kind of slipped
 2 out of the brain and then now it's coming back again.
 3 That's what's happening to me. I know something, I know it
 4 as well as anybody and then suddenly it's not there. But
 5 Mike said we were looking at foreclosure and we needed to do
 6 something.
 7 Q. Did Mike tell you why you were facing foreclosure?
 8 A. He said that it had been already -- we've been told
 9 we were facing foreclosure and got papers on it previous,
 10 way previous to this, and he said and that's why you went to
 11 Alternative Investors. They were the only company that
 12 seemed like they would be able to help you. And then he
 13 said don't you remember that, and I really didn't, but then
 14 as I thought about it it kind of came back.
 15 Q. But when we were talking earlier you didn't recall?
 16 A. No. I'm sorry. You're going to have -- you're
 17 going to find that's going to happen sometimes. I'm going
 18 to remember, sometimes I'm going to forget. And then
 19 sometimes you'll be standing there and we'll be talking
 20 about something and all of a sudden it will come back. Is
 21 that bad?
 22 Q. Did you have --
 23 MR. BHARTI: Just testify to what you remember.
 24 THE WITNESS: Okay.
 25 MR. BHARTI: You don't need to explain or

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24 (Pages 90 to 93)

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1 justify. Whatever comes to your mind tell truthfully. That
2 is all.

3 THE WITNESS: Okay.

4 Q. Did you have additional meetings with Northwest
5 Justice Project after filing the response to this, these
6 interrogatories?

7 A. I went there a couple of times after that, yes.

8 Q. Okay. And what things were you discussing with
9 them? This is prior to you obtaining your own counsel.
10 What were you discussing with Northwest Justice Project?

11 A. This is horrible, but let's see. One time we talked
12 about, you know, what was happening and another time we
13 talked about -- I can't remember. Oh, I went in with Karen
14 and sat in for a while to hear about these, this because I
15 didn't have a lawyer. And Eric and his lawyer, another
16 lawyer were there just to give me a general idea what it was
17 going to be like.

18 Q. And what do you mean what it's going to be like?

19 A. Well, you know, what would happen. Where we would
20 be, what would we be doing, who would we be talking. I was
21 scared out of my mind. I was going to go stand before a
22 judge and have to give testimony, I wouldn't know what to
23 say. So it was just kind of a little pep talk for me.

24 Q. Okay.

25 A. I didn't have a lawyer at that time. And since then

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1 Mr. Bharti has been very good at giving me information,
2 helping me. I'd never done anything like this before and
3 they were all such nice people, but I didn't know what I was
4 facing.

5 Q. Prior to obtaining counsel were you asked if you
6 wanted to withdraw as a plaintiff?

7 A. I don't, I don't think so. I don't remember.

8 Q. Did you want to be a part of this lawsuit?

9 A. I thought I should be. I thought I had to be. I
10 mean my name was on a lot of the stuff. It was Karen and I,
11 you know, mostly. I don't think I would have asked to be,
12 not to be a plaintiff. I mean I know it's scary to think
13 about. But at the same time, you know, if I'm part of it, I
14 should be there to answer if I can. Isn't that my duty to
15 do?

16 Q. Were you given other alternatives besides being a
17 plaintiff in this lawsuit?

18 A. No.

19 Q. Have you discussed that in particular with Northwest
20 Justice Project?

21 A. No. I just assumed -- bad, I know. But anyway, I
22 just assumed since my name was on the papers and I was part
23 of it, even though a lot of it I didn't remember, um, that I
24 needed to be on it. I'm there because I was part of it. It
25 would be wrong to take my name off, wouldn't it?

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1 MS. BROTHERTON: I think I'm done but I'm going
2 to ask if others have questions.

3 MR. AOKI: I have a few questions.

6 EXAMINATION

7 BY MR. AOKI:

8 Q. I just want to follow up a little bit on the line of
9 question about the Northwest Justice Project. And I know
10 you've been here all day and I know you're getting probably
11 a little fatigued, so I'll just ask you a few questions
12 about that.

13 It sounds like you have the kind of relationship
14 with the Northwest Justice Project attorneys that you trust
15 them?

16 A. Yes.

17 Q. And when they were giving you advice you were
18 relying upon that advice?

19 A. Yes.

20 Q. And did you get the sense that they were looking out
21 for you?

22 A. Yes.

23 Q. And that you're a part of their client's team?

24 A. You mean the clients Karen and Brian? I was part of
25 that team.

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1 Q. Yes.

2 A. Yes, I guess I did.

3 Q. You know, today we learned a lot about some pretty
4 significant incident in your life and that's your heart
5 attack.

6 A. Yes.

7 Q. And the impact it has on your ability to recollect.

8 Can you tell us a little bit more about your heart attack.

9 This is the one I'm referring to in June 2008.

10 A. Yeah, yeah. Well, I had gone to my chiropractor and
11 came home on the bus. I was going to stop and then I didn't
12 because I just didn't really feel good but I didn't feel bad
13 and it's a fairly steep hill, up the hill. And when I got
14 off at Newport Hills at the bottom where the bus stops and
15 then I walked up the hill. And as I went up the hill I got,
16 you know, I went slower and slower and slower and slower and
17 I felt tireder. I don't remember what happened but it was
18 right at the, at the end of the sidewalk before the
19 elementary school. I just fell down flat, flat on my face
20 on the grass.

21 And now this is stuff that I've been told that I
22 don't know about. There were people, parents that were in
23 cars and they were lined up to take the kids out on,
24 somewhere, I don't know, Remlinger Farm, somewhere like that
25 and they saw me laying there. And my next door neighbor ran

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25 (Pages 94 to 97)

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1 down to see who it was and saw who it was. So she ran and
 2 told Karen and Brian who were home. And the other guy that
 3 she was with is a fireman or a policeman, I don't remember
 4 which, and he came down and started CPR, you know, whatever.
 5 And they called the fire department right away and they got
 6 some equipment from the school and came. And when the
 7 fireman got there, the policeman got there, I wasn't
 8 breathing. I don't remember any of this, okay. But they
 9 got me in the ambulance and took me down to Overlake
 10 Hospital. And Karen and Brian came down and then they
 11 called Mike at work, my son, and then he came.

12 When I was there apparently I wasn't breathing. And
 13 they at first said that, you know, I'm dead. They're going
 14 to pronounce me dead. But then I guess that my heart
 15 started again or my pulse or something started, and so they
 16 decided to put me on a cold pad and take my temperature way
 17 down. Now, the only functioning organs were my heart and my
 18 brain apparently, that's sort of the way they said it, and I
 19 don't know how long I was there, how long I was under. I do
 20 know that I don't remember much of anything until I was all
 21 through. It was sauced and blown. What I hadn't had was
 22 the pacemaker and defibrillator which they put in, but they
 23 had done open heart surgery and a three way bypass. And
 24 then two days later they did the pacemaker and defibrillator
 25 which I was kind of woozy, in and out.

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1 Alert enough that I was a little bit hungry but I
 2 was getting better. But they said I was their miracle child
 3 because they didn't think I would live after that. And, you
 4 know, I didn't remember any of it, not at all. I had a hard
 5 time remembering names. I still have a hard time bringing
 6 up things. People's names basically. I've known them all
 7 for years and years and years and can't remember their
 8 names. If I think about it a little bit, usually they come
 9 back.

10 A lot of these questions, give me an hour of two of
 11 rest and maybe I can answer some of them. I don't know.
 12 All I know is I believe that I was due to die but that I
 13 couldn't die because I had something to do on this earth
 14 that I didn't get done. And I was given that next chance.
 15 Brought me back to life so I could do it. And nothing
 16 fancy, you know, nothing big, but just something that was
 17 needed to be done and it was my task given to me to do while
 18 I was on this earth.

19 Now, maybe that's silly and strange. Some people
 20 really believe it and some people just, you know, oh, yeah,
 21 right. But I have tried to live my life since then to the
 22 best of my ability being the person I think I should be
 23 rather than, you know -- I don't know if that's answering
 24 your question or not.

25 Q. I appreciate what you're saying. Just for

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1 clarification, you were in critical care over at Overlake?

2 A. Uh-huh.

3 Q. How long were you in the critical care unit?

4 A. Karen?

5 Q. If you don't know, the answer is you don't know.

6 You don't need to look around the table. I appreciate that.

7 A. She knows and I don't. I mean I don't know. I
 8 really don't.

9 Q. And then you went to nursing care after that?

10 A. I was in critical care and then I was on the medical
 11 wing. And then after I had my pacemaker and defibrillator,
 12 then I went to a place in downtown Bellevue. It's senior
 13 living, penthouse living on the top four floors. And then
 14 it's three floors for people that are recovering from
 15 surgery and people that need more care, Alzheimer patients
 16 and stuff. And that's where I was, and I don't even
 17 remember how long I was there. A week at least and maybe
 18 two. I don't know. And then from there I came home.

19 Q. Okay, okay. And it's your understanding it's your
 20 heart attack and the circumstances -- excuse me -- your
 21 heart attack that caused your inability to recollect certain
 22 events?

23 A. That's what my doctors have told me, yes.

24 Q. Okay. And has your ability to recollect events
 25 improved over the months since your heart attack?

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1 A. Yes, it has. If you talked to me in September, you
 2 would have said oh, send her away. She doesn't know what's
 3 going on and in October was a little better. I still have
 4 problems remembering things of people. But it's slowly but
 5 surely getting better all the time.

6 Q. So you see -- people have noted to you an
 7 improvement from month to month in the last few months?

8 A. Yeah.

9 Q. Okay.

10 MR. AOKI: You know, this is a deposition that
 11 was noted by Ms. Brotherton and I'm here because I represent
 12 a party to this case. I want to reserve the rest of my
 13 questions in light of the fact that she continues to improve
 14 with her recollection and may be able to recollect events
 15 prior to this in the next few weeks or so.

16 MR. BHARTI: I'm going to object. She's here
 17 right now.

18 MR. AOKI: I understand.

19 MR. BHARTI: And I'm going to object strongly
 20 and unless you make a motion and get a court order, she's
 21 not coming here as long as I'm the counsel of record. So
 22 she's here, she is ready to answer questions and that is,
 23 you know --

24 MR. WEIBEL: Well, she changes her answers from
 25 not recalling to recalling, we're going to be before a

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26 (Pages 98 to 101)

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1 judge.
 2 MS. BROTHERTON: Absolutely.
 3 MR. BHARTI: That is what I'm saying. You go
 4 before a judge, get an order, of course, we will comply.
 5 But without a court order, she's not coming here as long as
 6 I'm the counsel.
 7 MS. BROTHERTON: For the record, I support
 8 Mr. Aoki in that right. And I would like to put on the
 9 record that I'm reserving the right to continue this
 10 deposition for the same purposes considering the
 11 circumstances.
 12 THE WITNESS: Well, you know, I'm not loath to
 13 coming back at a future date. Give me a couple, three, four
 14 months and, you know, if you feel that there are questions
 15 that I need to answer, you know, we can try again.
 16 MS. BROTHERTON: Thank you.
 17 THE WITNESS: You've all been very, very nice.
 18 You've all been very patient and I thank you for that.
 19 MS. BROTHERTON: We appreciate you taking the
 20 time this afternoon.
 21 MR. WEIBEL: I don't have any questions today.
 22 Not at this time.
 23 MR. DUNN: I did want to ask a couple questions
 24 to clarify.
 25

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1 EXAMINATION
 2 BY MR. DUNN:
 3 Q. Ms. Fortune, do you remember coming to my office in
 4 the fall of 2008 during a time that you were facing eviction
 5 proceedings? It would have been a case filed by Murphy
 6 Pierson. If you don't remember, that's fine.
 7 A. I think I do but I don't know. I don't know if that
 8 was when --
 9 Q. That would have been around the time Karen and Brian
 10 first became my clients.
 11 A. And Lizzy was there, and I went out with Lizzy
 12 because she was fussing around.
 13 Q. Right. And do you recall whether I had a
 14 conversation with you about whether I could represent you?
 15 A. Yeah, you told me you couldn't. Didn't you?
 16 Q. And do you recall whether in that conversation I
 17 indicated that it would be important for you to be a
 18 participant in a lawsuit because you were one of the people
 19 who appeared on the title?
 20 A. No, I don't remember that but it makes sense.
 21 Q. Do you recall whether after that day I showed you a
 22 copy of a document called Verified Complaint that's marked
 23 as Exhibit 13?
 24 A. No, I don't remember that.
 25 MR. BHARTI: Let's show it to her before she

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1 states. Take a look before you answer anything.
 2 Q. Could you take a look at Exhibit 13 and look at the
 3 very last page, page 13.
 4 A. The very last page?
 5 Q. Yes.
 6 MR. BHARTI: Sometimes fancy words are
 7 different. What you see is different so take a look.
 8 Q. You're looking at page 23 of something called the
 9 Verified Complaint?
 10 A. Yeah, here is Verified Complaint.
 11 Q. Does your signature appear on that document?
 12 A. Yes, it does.
 13 Q. Do you believe you read this document before you
 14 signed it?
 15 A. I don't know if I did or not. I can't remember,
 16 sorry. I either read it or someone explained it to me but I
 17 don't know.
 18 Q. Above your signature it says that you're the above
 19 named plaintiff and on November 7th, 2008 you read and
 20 reviewed the foregoing Verified Complaint in that
 21 verification and reviewed the contents thereof and believed
 22 the same to be true?
 23 MR. BHARTI: Go ahead read it and then answer.
 24 Q. And that you declared under penalty of perjury in
 25 the state of Washington that the foregoing was true and

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1 correct?
 2 A. Well, I signed it, so I must have believed it. I'm
 3 fuzzy about this.
 4 Q. What number did we mark as the interrogatories?
 5 THE REPORTER: 15.
 6 Q. Ms. Fortune, could you take a look at document No.
 7 15. It's entitled Plaintiff Maxine Fortune Responses to
 8 Defendant Pierson's First Interrogatories and Request For
 9 Production of Documents?
 10 A. Uh-huh.
 11 Q. Do you recall having a conversation with me which I
 12 indicated that you had been sent a copy of these and needed
 13 to respond to them?
 14 A. Yes.
 15 Q. And did I indicate that my office thought it was
 16 consistent with the interest of Karen and Brian that you
 17 answer the interrogatories?
 18 A. Yes.
 19 Q. And did I say that my office was willing to help you
 20 compile the answers and forward them to Murphy Pierson?
 21 A. I think, I think you did say that.
 22 Q. Did I say that our office would help you get the
 23 interrogatories answered?
 24 A. Yes.
 25 Q. And did we, did we help you prepare the final

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27 (Pages 102 to 105)

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1 responses before they were sent?
 2 A. I think you did. I don't remember it but I think
 3 you did.
 4 Q. Did we have an appointment where you came in to
 5 review the answers before you signed them?
 6 A. You know, I think I did. I think I did remember
 7 that.
 8 Q. When you came in that day, did you have a couple of
 9 documents with you at that appointment?
 10 A. Documents with me?
 11 Q. Well, do you remember whether you had documents or
 12 not when you came in for that appointment?
 13 A. I don't remember. I'm really sorry.
 14 Q. Could you turn to page, the signature page, No. 8.
 15 Page 8 of Exhibit 15.
 16 A. Page 8. Okay, how do we find that?
 17 Q. Exhibit 15, page 8. Keep going.
 18 A. Is this page 8, okay.
 19 Q. Yeah, where it's signed.
 20 A. That's my signature.
 21 Q. And above your signature it says that you certify
 22 under penalty of perjury in the state of Washington that the
 23 foregoing is true and correct?
 24 A. Yes.
 25 Q. Did you review these answers before you signed them?

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1 A. I read through them, yeah.
 2 Q. Did you agree that they were true and accurate to
 3 the best of your knowledge?
 4 A. To the best of my knowledge.
 5 Q. And that's why you signed the document?
 6 A. Yes. You told me not to sign it if I didn't agree,
 7 didn't you?
 8 Q. I believe so.
 9 MR. DUNN: Nothing further.
 10
 11
 12 EXAMINATION
 13 BY MS. BROTHERTON:
 14 Q. I have another question. If we could go back to
 15 Exhibit 6, please.
 16 A. 6?
 17 Q. Yes, please. If you could go to page 18.
 18 A. Okay.
 19 Q. Right above where the buyer's signature is, buyer
 20 and seller signatures are, the last line there says, "I have
 21 had adequate time and opportunity to read and understand
 22 these instructions and all other existing documents referred
 23 to in these instructions." Because you signed below that,
 24 would you have read that?
 25 MR. BHARTI: Okay. Hold on. I'm going to

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1 object because this is beyond the scope of redirect or
 2 recross-examination. This question has been asked and
 3 answered. So objection, asked and answered. Beyond the
 4 scope. Go ahead.
 5 Q. You can go ahead and answer the question.
 6 A. What are you asking me?
 7 Q. Above the signature lines, the last line there
 8 says -- above the signature line it says, "I have had
 9 adequate time and opportunity to read and understand these
 10 instructions and all other existing documents referred to in
 11 these instructions."
 12 A. Well, I signed down here. That's my signature.
 13 Q. And in your normal procedure would you have read --
 14 A. I don't know that I read it all. You know, that's
 15 my problem. In the first place most of this is so small,
 16 it's hard to read. So generally speaking, I kind of skim
 17 it. Not read it thoroughly.
 18 Q. Okay. But you would have read this line and still
 19 signed the document?
 20 MR. BHARTI: Asked and answered. She already
 21 answered it.
 22 MS. BROTHERTON: It's a different question.
 23 Please let her answer.
 24 MR. BHARTI: Objection. Asked and answered. Go
 25 ahead. Do you know what the question is?

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1 A. Yes. Yes, I would have signed it.
 2 Q. If we can go to page 22. Above the signature lines
 3 there it states, "I have had adequate time and opportunity
 4 to read and understand these instructions and all other
 5 existing documents referred to in these instructions."
 6 MR. BHARTI: Hold on. Let me make the same
 7 objection. Beyond the scope. Asked and answered. Go
 8 ahead.
 9 Q. Would you have read that statement?
 10 A. What is he saying to you or what does he mean?
 11 Q. Your attorney is stating objections for the record
 12 but you still answer the question.
 13 MR. BHARTI: My objection what I'm raising is
 14 that this question has been previously asked and you have
 15 already answered it. So repetition is not permitted. I'm
 16 trying to protect that objection. So despite my making the
 17 record, you again are requested to go ahead and answer.
 18 Make sense?
 19 THE WITNESS: Not really.
 20 MR. BHARTI: Go ahead then.
 21 A. Like I said, I scanned but I maybe didn't read the
 22 whole thing real carefully.
 23 Q. Would you have read this line prior to signing below
 24 it?
 25 A. Yeah. Yes.

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28 (Pages 106 to 109)

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1 MS. BROTHERTON: Thank you. I'm all done for
2 today.

EXAMINATION

3
4
5 BY MR. AOKI:

6 Q. If I can ask just a quick question for followup.
7 When you were executing your signature on these documents,
8 did you understand that you were committing to follow the
9 terms and conditions of the document?

10 A. I was told that when I signed.

11 Q. But that's what you understood you were doing by
12 signing that you were going to follow those terms and
13 conditions?

14 A. I questions so, yeah. You know, I'm not
15 guaranteeing --

16 MR. BHARTI: There is no question. You answered
17 it. Unless there's a question, you don't have to be taking
18 everybody's time. Are we done?

19 MS. BROTHERTON: We are. Thank you again.

20 MR. BHARTI: Let me make a quick record. For
21 the record for each party I'm representing Maxine Fortune.
22 I filed my notice of appearance over the weekend and within
23 a couple of days we are here for the deposition of Maxine,
24 even though I had other conflicts to accommodate the parties
25 so that the noted deposition proceeds.

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1 So since we have made the effort to cancel some -- I
2 had a board meeting, I'm on the board of lawyers helping
3 hungry children, I had to let go of that meeting. We still
4 took care of the deposition and this was properly noted. So
5 my objection is if anybody tries to rehash and try to do
6 their deposition again, it's highly improper and without a
7 court order we will be resisting to show up again.

8 If you have any further questions, it is only 4:37,
9 38. And it has been three hours and about ten minutes of
10 deposition time utterly devoted by Maxine which is pretty
11 much close to the time deposition taken by the previous
12 witness. So, if you have any further questions, this is
13 your opportunity. You have all the time you want. I'm
14 going to be here, but after we walk out, you're not going to
15 see her again unless there is a court order. Thank you very
16 much.

17 MR. WEIBEL: I would just add so long as
18 Ms. Fortune doesn't recall and change her answers from what
19 she's testified here today, we will not be seeking her
20 deposition.

21 THE WITNESS: You know something, I don't
22 know --

23 MR. BHARTI: No. There is no question from you.
24 Just hold on.

25 THE WITNESS: Thank you.

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1 MR. BHARTI: I know you guys love to talk.

2 THE WITNESS: We're friends.

3 MR. BHARTI: No, we're not. So you are
4 instructed to --

5 THE WITNESS: My son went back home and now he's
6 going to come back down to get us to take us home.

7 MS. BROTHERTON: Okay. Thank you.

8 MR. BHARTI: Reserve signature.

9 (Signature reserved.)

10 (Deposition adjourned at 4:42 p.m.)
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1 STATE OF WASHINGTON) I, Mary W. Miller,
2) ss CCR 2653 a
3 County of KING) duly authorized Notary
4 Public in and for the
5 State of Washington
6 residing at Issaquah,
do hereby certify:

7 That the foregoing deposition of MAXINE FORTUNE
8 was taken before me and completed on December 15, 2009, and
9 thereafter was transcribed under my direction; that the
10 deposition is a full, true and complete transcript of the
11 testimony of said witness, including all questions, answers,
12 objections, motions and exceptions;

13 That the witness, before examination, was by me
14 duly sworn to testify the truth, the whole truth, and
15 nothing but the truth, and that the witness reserved the
16 right of signature;

17 That I am not a relative, employee, attorney or
18 counsel of any party to this action or relative or employee
19 of any such attorney or counsel and that I am not
20 financially interested in the said action or the outcome
21 thereof;

22 IN WITNESS WHEREOF, I have hereunto set my hand
23 and affixed my official seal this 28th day of December,
24 2009.
25

26 Mary W. Miller
27 Notary Public in and for the State
28 of Washington, residing at Issaquah.

[illegible]

Cc: RUSSELL M. AOKI, DAVID A. WEIBEL, HARISH BHARTI

MAXINE FORTUNE

cc: ERIC DUNN, RUSSELL M. AOKI, DAVID A. WEIBEL, HARISH BHARTI

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